

NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.



Congressional Information Service, Inc.
Washington, D.C.

AUTHORIZATION FOR CERTAIN MARITIME PROGRAMS

HEARING BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE OF THE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION UNITED STATES SENATE ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 800

TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1988 FOR CERTAIN
MARITIME PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION
AND THE FEDERAL MARITIME COMMISSION

MARCH 31, 1987

Printed for the use of the
Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1987

72-209

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

5261-33

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ERNEST F. HOLLINGS, South Carolina, <i>Chairman</i>	
DANIEL K. INOUE, Hawaii	JOHN C. DANFORTH, Missouri
WENDELL H. FORD, Kentucky	BOB PACKWOOD, Oregon
DONALD W. RIEGLE, JR., Michigan	NANCY LONDON KASSEBAUM, Kansas
J. JAMES EXON, Nebraska	LARRY PRESSLER, South Dakota
ALBERT GORE, JR., Tennessee	TED STEVENS, Alaska
JOHN D. ROCKEFELLER IV, West Virginia	ROBERT W. KASTEN, JR., Wisconsin
LLOYD BENTSEN, Texas	PAUL S. TRIBLE, JR., Virginia
JOHN F. KERRY, Massachusetts	PETE WILSON, California
JOHN B. BREAUX, Louisiana	JOHN MCCAIN, Arizona
BROCK ADAMS, Washington	

RALPH B. EVERETT, *Chief Counsel and Staff Director*

W. ALLEN MOORE, *Minority Chief of Staff*

SUBCOMMITTEE ON MERCHANT MARINE

JOHN B. BREAUX, Louisiana, <i>Chairman</i>	
DANIEL K. INOUE, Hawaii	TED STEVENS, Alaska
LLOYD BENTSEN, Texas	PAUL S. TRIBLE, JR., Virginia
BROCK ADAMS, Washington	

C O N T E N T S

Opening statement by Senator Inouye.....	Page 1
Opening statement by Senator Breaux.....	1
Opening statement by Senator Adams.....	3
Opening statement by Senator Danforth.....	4
Text of S. 800.....	5

LIST OF WITNESSES

Gaughan, John A., Maritime Administrator, DOT; accompanied by Elaine Chow, Deputy Maritime Administrator; Richard Bowman, Associate Administrator for Maritime Aid; and Robert Patton, Acting General Counsel.....	20
Prepared statement.....	35
Questions of Senator Danforth and the answers.....	38
Hickey, Hon. Edward V., Jr., Chairman, FMC; accompanied by James J. Carey, Vice Chairman; Robert D. Bourgojn, General Counsel; Edward P. Walsh, Managing Director; and Fred Trutkoff, Director, Office of Budget and Financial Management.....	8
Prepared statement.....	17
May, Albert E., executive vice president, Council of American-Flag Ship Operators.....	49
Prepared statement.....	51
Miller, Rear Adm. Floyd, president, State University of New York Maritime Academy; accompanied by Rear Adm. James F. McNulty, superintendent, Great Lakes Maritime Academy; Rear Adm. John Aylmer, president, Massachusetts Maritime Academy; Rear Adm. Kennerh Curtis, president Maine Maritime Academy; and Rear Adm. William H. Clayton, superintendent, Texas Maritime Academy.....	59
Prepared statement.....	61
Sansone, Wallace T., Vice Commander, Military Sealift, Department of the Navy, Prepared statement.....	40 47
Stocker, John J., president, Shipbuilders Council of America.....	54

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Burnsky, Paul J., president, Metal Trades Department, AFL-CIO, statement.....	72
Luciano, Peter J., executive director, Transportation Institute, statement.....	76
National Council Maritime Academy Alumni Assn., statement.....	69
National Customs Bankers & Forwarders Association of America, Inc., statement.....	70
Schultz, Donald J., American Association of Port Authorities, letter.....	71
Wilcox, Thomas D., executive director and general counsel, National Association of Stevedores, letter.....	77

AUTHORIZATIONS FOR CERTAIN MARITIME PROGRAMS

TUESDAY, MARCH 31, 1987

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room SR-253, Russell Senate Office Building, the Hon. John B. Breaux (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: John Hardy, staff counsel and Brad Gilman, minority professional staff member.

Senator BREAU. The subcommittee will please come to order. We are pleased to be here. We have an opening statement from Senator Inouye, which we will ask unanimous consent to make part of our record.

[The statement follows:]

OPENING STATEMENT BY SENATOR INOUE

I wish to congratulate the distinguished Senator from Louisiana on assuming the Chairmanship of the Merchant Marine Subcommittee. The task before this Subcommittee is formidable, urgent, and essential, if our fourth arm of defense is to remain capable of meeting the responsibilities our national maritime policy gives it.

Because the job is so vital, we are fortunate to have as our Subcommittee Chairman, a person with such a knowledgeable and distinguished background in maritime affairs. In the difficult days ahead, I wish to assure my Chairman of my full support and cooperation.

I note with special satisfaction that the bill he has introduced (S. 800) does not reflect the Administration's proposal to eliminate the Title XI program.

The American Ship Building Company has filed for vessel mortgage insurance under Title XI for construction of two passenger vessels in its shipyard in Tampa, Florida. Without the guarantees under Title XI, no lending institution in the United States will finance such a project. Assuming American Ship Building's application is consistent with MARAD's rules, I support it.

Currently there are only four commercial, deep sea vessels under construction in U.S. yards; and, the U.S.-flag deep sea cruise fleet consists of two vessels. So the American Ship Building Company project will not only give a badly needed boost to the U.S. shipbuilding industry, it will double the size of our fledgling cruise industry; and create several thousand shoreside and seagoing jobs.

It also seems to me that approval of this application is a concrete way for the Administration to show its often expressed support for the Jones Act.

OPENING STATEMENT BY SENATOR BREAU

Senator BREAU. This morning's hearing is to authorize funding for our maritime promotional and regulatory programs, and comes at a time when our fourth arm of defense is in perilous decline.

At the end of World War II there were more than 5,000 vessels in the U.S. Merchant Fleet. As of January 1, 1980, there were only 533 ocean-going vessels in the privately owned active U.S. Merchant Fleet. As of October 1, 1986, that number had shrunk even more to 391.

In 1980 there were 27 commercial shipyards in our active shipbuilding mobilization base. By the end of 1986, however, there were only 22 shipyards in that base, because five were forced to close since they had no orders. Only four maritime ships are currently under construction in the United States shipyards, and shipyard employment is down 27,000 workers since 1982.

In 1980, 72.9 percent of the cargo in our liner trades moved on foreign bottoms. In 1985, however, foreign flags increased their share to 79 percent. With respect to our total international trade liner, dry, and liquid bulk foreign flags carried 96.3 percent in 1980, and 95.7 percent in 1985. Although it appears that we have increased our total share of the trade, the figures are misleading because the absolute tonnage carried has gone down.

At this early stage of our subcommittee chairmanship I would not presume to suggest specific remedies to the many complex problems which have alluded solution for so many years. I might add however that as a member of the Merchant Marine Committee on the House side for 14 years, I am very aware of the fact that solutions are not easy.

Yet, I do believe that certain preliminary steps readily suggest themselves. At the very least, we must not do anything to make matters worse. In this connection, two Administration proposals come to mind.

First is the termination of support for the State Maritime Schools. Second is a termination of the vessel construction loan guarantee program, the Title XI program. Neither of these proposals, in my opinion, is in the national interest if a strong Merchant Marine is our goal.

S. 800, which I introduced, is intended to maintain the status quo in our maritime promotional program until Congress enacts the kind of comprehensive program necessary to revitalize our merchant fleet. It would also authorize funding for the Federal Maritime Commission. Among other things, the FMC has the responsibility for regulating our international liner trades to ensure the maintenance of a dependable common carrier service responsive to the needs of vessel operators, exporters and importers.

The unsettled state of international liner shipping requires extra diligence by the FMC to ensure stable and nondiscriminatory rates and service in our trades. I believe the funding level in S. 800 will enable that agency to carry out its responsibilities.

In the days ahead, I hope to hear from all segments of the maritime industry. I invite them to make whatever recommendations they feel will help the U.S. Merchant Marine re-establish its pre-eminent place in world shipping.

To our guests here this morning, I want to say to all of them that as Chairman of this Subcommittee it is my intent to be as active as time allows, and to be willing to meet with an open-door policy all of the various interests engaged in this very complex and sophisticated business. It is my intent to try and offer my services

to do whatever is needed to try and build up our U.S. Merchant Marine to a point where we can proudly say that when we had the opportunity in difficult times, we met that challenge and moved forward aggressively and comprehensively to come up with some solutions to the problems. That is my commitment, and I hope it is certainly the commitment of those who are concerned about this industry.

With that, I would welcome our good friend and former House colleague, and former Secretary of Transportation, Mr. Brock Adams, for any comments he might have.

Brock.

OPENING STATEMENT BY SENATOR ADAMS

Senator ADAMS. Thank you, Mr. Chairman.

It is a pleasure to be here today with you, having served in the House and knowing your expertise in this area; and also having been Secretary of Transportation, I was one of those who advocated—and I am pleased to see it has happened now—the movement of MarAd into the Department of Transportation.

I want to welcome also the witnesses here from the Federal Maritime Administration. I agree with many of the statements made by the chairman. The U.S. must renew and maintain its commitment to a strong and viable Merchant Marine, because it is vital to national security, because we are a Nation increasingly dependent on trade and the international markets. We just cannot stand idly by and watch the continuing collapse of our ship building industry and its capacity, nor the steady evaporation of jobs of our trained seamen.

This is also being caused, and will be accelerated as the chairman mentioned in his opening statement, if we allow the administration proposed cuts to cause a disappearance of our maritime education system.

The current Administration has abrogated its responsibilities to the U.S. Merchant Marine and the maritime industry. As the House Merchant Marine and Fisheries Committee Chairman, Representative Walter Jones said at the Propeller Club on March 18:

The Administration, who should be our partner in seeking solutions to the problem besetting our fleet, has not chosen to participate in a meaningful way.

In my opinion, it is irresponsible for the Administration to call for the sudden dismantling of Title XI, the loan guarantee program, without proposing any meaningful alternative. The Title XI program is the last remaining program supporting the U.S. ship building industry. The Administration's ideological justification for the termination of Title XI is thin gruel for Americans.

Termination of any new Title XI guarantee commitments reflects the Administration's goal, which is to reduce completely Government interference with the credit market, as stated by the MarAd Administrator, John Gaughan.

Dismantling the entire Title XI program because of excessive default rates on guaranteed loans is a misguided reaction to a crisis brought about by the current troubles in the oil industry. 1985 and 1986 loan defaults under Title XI totaled \$1.375 billion. All but \$300 million of these defaults were attributable to the energy in-

dustry: oil rigs, tenders, LNGs. Why should the rest of the maritime industry be cut off now?

So, Mr. Chairman, it is a pleasure to be here this morning. I want to cooperate with you in your efforts. I have spent the last seven years after leaving the Department in international trade. I know the problems that our fleet has abroad, both in cross-trade; and in direct trade, and in the ability to be able to carry a sufficient portion of our goods into countries that are demanding pooling arrangements are that needs to be addressed. Certainly we need to have a merchant fleet that is viable.

I look forward to the hearings and will participate with you fully in them.

Senator BREAUx. I thank the Senator for his opening comments. Certainly it is going to take that kind of consensus from this committee to come up with a comprehensive program for the Merchant Marine, and we look forward to working with you, Brock, in that regard.

Senator Danforth do you have a statement?

OPENING STATEMENT BY SENATOR DANFORTH

Senator DANFORTH. Mr. Chairman, I am very pleased to participate in this hearing of the Merchant Marine Subcommittee on authorizations for the Maritime Administration (MarAd) and the Federal Maritime Commission (FMC). I congratulate you for dealing with this important subject in this, your first hearing as Chairman of the Subcommittee.

MarAd and the FMC oversee and implement statutory programs that directly affect the well-being of our merchant marine and of all those who are dependent upon it. The role of these agencies is especially important to the success of efforts to meet the challenges and resolve the difficulties in maintaining a viable U.S. merchant marine.

As you know, Section 101 of the Merchant Marine Act, 1936 sets forth a national policy to foster the development and encourage the maintenance of a merchant marine sufficient to meet the needs of the United States in areas of national security and commerce. In these times of necessary fiscal constraint, I suggest that the various maritime programs should be carefully scrutinized and evaluated to ensure that they are, in fact, contributing to achieving that policy in a cost-effective and efficient manner. The operating differential subsidy program, cargo preference, Title XI, and other programs should all be examined from this perspective, and I look forward to the testimony of witnesses today to assist in that evaluation.

[The bill follows:]

100TH CONGRESS
1ST SESSION

S. 800

To authorize appropriations for fiscal year 1988 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission.

IN THE SENATE OF THE UNITED STATES

MARCH 19 (legislative day, MARCH 17), 1987

Mr. BREAUX introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize appropriations for fiscal year 1988 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That funds are authorized to be appropriated for the use of
4 the Maritime Administration for fiscal year 1988 as follows:
5 (1) for payment of obligations incurred for operat-
6 ing-differential subsidy, not to exceed \$300,000,000;
7 (2) for expenses necessary for research and devel-
8 opment activities, not to exceed \$2,000,000; and

1 (3) for expenses necessary for operations and
2 training activities, not to exceed \$74,797,000, includ-
3 ing not to exceed—

4 (A) \$33,998,000 for maritime education and
5 training expenses, including not to exceed
6 \$22,767,000 for maritime training at the Mer-
7 chant Marine Academy at Kings Point, New
8 York, \$10,000,000 for financial and fuel oil as-
9 sistance to State maritime academies, and
10 \$1,231,000 for expenses necessary for additional
11 training;

12 (B) \$13,812,000 for national security support
13 capabilities, including not to exceed \$12,519,000
14 for Reserve Fleet expenses and \$1,293,000 for
15 emergency planning operations; and

16 (C) \$26,987,000 for other operating program
17 expenses.

18 SEC. 2. Funds are authorized to be appropriated for the
19 use of the Federal Maritime Commission in the amount of
20 \$14,500,000 for fiscal year 1988.

21 SEC. 3. (a) Section 1304(g) of the Merchant Marine Act,
22 1936 (46 App. U.S.C. 1295c(g)) is amended—

23 (1) in paragraph (1)(B), by striking “and” the
24 second place it appears;

1 (2) in paragraph (1), by striking subparagraph (C)
2 and inserting in lieu thereof the following:

3 "(C) paid by the Secretary for the first complete
4 or partial academic year of attendance to the individual
5 in a lump sum of \$1,200 or on a prorated basis based
6 on actual attendance, and at a time during the second
7 academic year when the individual enters into an
8 agreement accepting midshipman and enlisted reserve
9 status as required under paragraph (2); and

10 "(D) paid by the Secretary for the academic years
11 after those years specified in subparagraph (C) as the
12 Secretary shall prescribe while the individual is attend-
13 ing the academy.";

14 (3) in paragraph (2), by striking "apply for mid-
15 shipman" and inserting in lieu thereof "accept midship-
16 man and enlisted reserve";

17 (4) in paragraph (3)(D), by striking "to apply for
18 an appointment as,"; and

19 (5) in paragraph (4), by striking "has attended a
20 State maritime academy for not less than 2 years" and
21 inserting in lieu thereof "has accepted the payment de-
22 scribed in paragraph (1)(C)".

23 (b) The amendments made by this section apply to indi-
24 viduals who commence attendance after calendar year 1986
25 at a State maritime academy in accordance with section

1 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C.
2 1295c).

Senator BREAUX. We welcome our first panel of witnesses this morning. Mr. Hickey, if you would, introduce your colleagues who are with you. The Committee welcomes the Honorable Ed Hickey, who is Chairman of course of the Federal Maritime Commission. Mr. Hickey, we are pleased to have you. If you would, introduce your colleagues and we would be pleased to receive your testimony.

STATEMENT OF HON. EDWARD V. HICKEY, JR., CHAIRMAN, FEDERAL MARITIME COMMISSION, ACCOMPANIED BY JAMES J. CAREY, VICE CHAIRMAN; ROBERT D. BOURGOIN, GENERAL COUNSEL; EDWARD P. WALSH, MANAGING DIRECTOR; AND FRED TRUTKOFF, DIRECTOR, OFFICE OF BUDGET AND FINANCIAL MANAGEMENT

Mr. HICKEY. Thank you, Mr. Chairman.

With me today are Vice Chairman James J. Carey; Robert D. Bourgoin, the Commission's General Counsel; Edward P. Walsh, the Commission's Managing Director; and Fred Trutkoff, the Director of the Commission's Office of Budget and Financial Management.

Mr. Chairman and Members of the subcommittee, it is a pleasure to appear before you today to present the fiscal year 1988 budget request of the Federal Maritime Commission. I would like to submit my formal statement for the record and, with your permission, briefly summarize it.

Senator BREAUX. Without objection, your formal statement will be made a part of the record and you may summarize.

Mr. HICKEY. The Federal Maritime Commission is requesting \$14,500,000 for fiscal year 1988. This amount, which is the same as that included in S. 800 and the President's budget will provide funding for 216 work years of employment, and is an increase of \$2,553,000 above our anticipated appropriation for fiscal year 1987. Much of this increase is the result of additional administrative charges over which we have no control. The only major programmatic increase is \$1,430,000 for the design and initial procurement of a prototype automated tariff filing system.

For the past several years, the Commission has been exploring the possibility of adapting our outmoded manual tariff filing system to the computer age. We have obtained the views of all affected parties through the course of three Advisory Committee meetings, and have recently received a feasibility study which was conducted by a private consulting firm. The consensus reached by the Committee and the study is clear—an automated tariff filing system at the Federal Maritime Commission is both feasible and desirable.

There are several reasons why we believe that an automated tariff filing system is both beneficial and necessary. The sheer volume of tariff pages filed with the Commission, approximately 700,000 this year, is making it increasingly difficult for us to fulfill our statutory mandates. An automated tariff filing system will greatly enhance our ability to analyze tariff data and enforce the shipping statutes. Such a system could also benefit private parties since they will be able to rapidly file, retrieve, and evaluate tariff information. In addition, the availability of automated tariff infor-

mation will make the Commission's study on the increases and decreases in the level of rates pursuant to Section 18 of the Shipping Act of 1984 much easier.

During fiscal year 1988, the Commission intends to procure a prototype automated tariff filing system and operate it in conjunction with several volunteer carriers, conferences, and ports who have expressed a desire to participate. We would hope to have a fully automated system in operation by the end of fiscal year 1989.

Mr. Chairman, as you know, the Shipping Act of 1984 significantly altered the Commission's regulatory mission. We no longer focus our efforts on the pre-implementation approval process for agreements among ocean common carriers. Rather, we are concentrating our efforts to uncover and penalize violations of the 1984 Act. We believe that if our statutes are enforced fairly and effectively, non-discriminatory common carriage will be assured and the interests of the public will be well served.

To this end, we intend to take several steps to improve our enforcement efforts during fiscal year 1988. We have recently completed plans which will strengthen our bureaus and offices. As a part of this effort, our enforcement program has been somewhat restructured. We are attempting to target major industry malpractices. We have also begun a formal training program for investigators and others involved in enforcement matters. In addition, we have recently hired new personnel for our enforcement program, the first such hirings since 1980.

Mr. Chairman, I believe that our 1988 budget request is responsive to both our statutory charter and today's economic realities. I therefore urge its favorable consideration.

I would be pleased to respond to any questions that you might have.

Senator BREAU. Thank you, Mr. Hickey, for your statement and your colleagues for being in attendance with you. I am real pleased to see that we are making some changes to automat the tariff system. You mentioned that up to now it has been basically a manual system?

Mr. HICKEY. It is, sir, and quite cumbersome. As a matter of fact, I think we are lightyears behind the times in not being automated.

Senator BREAU. When you say "manual," you cannot really be talking about just filing tariffs in boxes? You are not on computer now, with regard to all of them?

Mr. HICKEY. They are filed manually in pages in binders.

Senator BREAU. Where have we been for the last ten years?

Mr. HICKEY. Pardon, sir?

Senator BREAU. Where have we been for the last ten years?

Mr. HICKEY. Well, unfortunately, not in the right direction.

Senator BREAU. You must be the only agency in Washington that is not on a computer with regard to the volumes of material you receive. I do not see how you have been able to do it.

Mr. HICKEY. Well, a few years ago we undertook a study, and the Vice Chairman, Mr. Carey, was heavily involved in that project, and perhaps he could give some historical reference to what has or has not occurred.

Senator BREAU. I do not want to be facetious, but do you mean that up to now all of these filings and these volumes of thousands

and thousands of pages have all been filed just by putting them in a box, so to speak?

Mr. CAREY. Yes, sir. They go in some 4,980 four-ring binders where they are almost unuseable. We have been on again/off again in seeking to move into tariff automation at least as long as I have been at the Commission, and that has been since 1981.

Because the possible elimination of tariff filings was being debated in the early 1980's we did not come forth to ask you for money to automate tariffs. Once the Shipping Act of 1984 was passed and we saw that tariffs were fairly solidly in place, for at least a five-year period, we moved forth on this I think quite ambitiously. We are going through all of the gates that are provided for in government procurement.

Senator BREAU. Well, I am glad to know that we are making progress, but what can you tell the committee about the prognosis? Are things on line as far as the automation system is concerned?

Mr. CAREY. Yes, sir. I will give you what our projected schedule and goals and milestones are at this point. We just finished the feasibility study. During that process, we have had a first-ever, at least for our agency, industry advisory committee. So we have had various facets of the industry heavily involved and advising us along the way, so that quite frankly we do not invent a square peg to go into a round hole.

At this point, we are now working with GSA to do a cost/benefit study. We would estimate that that would take three to four months. Once we have that in hand, we can then proceed with the design of a request for proposal. We are expecting that to take four to six months, and we are looking at designing a functional RFP.

By that I mean that we do not see that we need to specify any particular piece of equipment or any piece of software, but rather specify the tasks to be done and let the private sector bid on that in the best way that the private sector can respond.

Senator BREAU. Well, I just would encourage you to continue moving. I mean, we are light years behind in this area, and apparently a real serious effort is being made to correct it. I see that you are saying that it should be a completed full system, operable by fiscal year 1989. I think it is important to keep this committee informed of the progress.

Mr. HICKEY. We certainly will.

Senator BREAU. Let me ask about another area that has been brought to my attention on the problem we are having with Japan on the issue of High Cube containers. How come they do not have an agent that we can just serve here? Can you not appoint or require anybody doing business with us to have an agent in this country that you can serve process on? We have to go running around Tokyo looking for somebody to hand papers to?

Mr. HICKEY. Well, that issue was addressed years ago. It was the desire of the Commission to have that ability.

Senator BREAU. You cannot do it just by regulation?

Mr. HICKEY. No, not by regulation.

Senator BREAU. What do you need? An Act of Congress to say that they have to have an agent in this country?

Mr. HICKEY. I would say it would require legislation.

Senator BREAUX. Everybody in business that I can think of that does business in the United States, part of the conditions of doing business in this country, and making a lot of money, is that they have an agent which we can serve if the occasion arises. Why can you not just make them do that?

Mr. HICKEY. There is some substantial history to this, Mr. Chairman. This was attempted I believe early on in the 1960s, and other agencies or departments within the Government opposed it, and it was defeated.

Senator BREAUX. Who opposes that? How about the State Department?

Mr. HICKEY. It was the Department of State.

Mr. BOURGOIN. At the time, it was the Department of State.

Senator BREAUX. The State Department does not like that?

Senator ADAMS. Mr. Chairman, would you yield for a moment on that point?

Senator BREAUX. Certainly.

Senator ADAMS. Is it not true under the Foreign Sovereign Immunities Act that Justice and State have worked out a manner for filing against foreign vessels and avoiding attachment, for example, in the United States but allowing for attachment on a sovereign level?

Mr. BOURGOIN. I am aware of that. Actually, service of process is not as big a problem as it might first appear, because what we have done is serve the steamship companies' agents in the United States. They all have representatives here, some fairly high-level representatives. So what we have done is, when we need to serve orders, is serve them on their offices here in the United States, and we have encountered no problems in doing that.

Senator BREAUX. Well, on the Cube Case, is it not a fact that they are arguing that service was improperly made?

Mr. BOURGOIN. In the High Cube case, the first order that went out was served in Japan. They refused to comply on the basis that the Commission's order was extraterritorial.

Senator BREAUX. Well, so it is a problem.

Mr. BOURGOIN. But the second order was served in the United States on their offices here, and they complied.

Senator BREAUX. Well, would it not just be a better situation if you had it cleared up that you did not have to go to court and fight this silly matter out?

Mr. BOURGOIN. I would agree, sir.

Mr. HICKEY. Absolutely.

Senator BREAUX. What do we have to do to make that possible? Do we have to pass an Act of Congress that says that?

Mr. BOURGOIN. I believe that would be the safe course of action.

Senator BREAUX. How about a quicker way?

Mr. BOURGOIN. We could try it administratively, but I believe it might be vulnerable, particularly since an attempt had been made in the early 1960's to try to do it legislatively and that failed.

Senator BREAUX. Have you communicated with the State Department? Have they sent you a letter saying we do not like that?

Mr. BOURGOIN. Not recently. We are going back over 20 years—at that time, the State Department opposed the legislation. That legislation would have done two things:

First, it would have required an agent for the service of process; and second, required that the documents of these foreign-based carriers be maintained in the United States.

Senator BREAU. Well, we want to correct this problem for you. It would be helpful I think if you could provide us some suggestions as to what actually we would have to do in order to correct that from a legislative standpoint. Could we do it in this authorization bill, or what have you?

Senator ADAMS.

Senator ADAMS. Thank you, Mr. Chairman.

I think one thing you need to correct is your document filing, if you are going to have people filing here with you, or you are going to be serving them.

Are you really moving pages in and out like the old CCH tax binders? Is that what you have got down there?

Mr. HICKEY. That is correct.

Senator ADAMS. Mr. Hickey, I agree with the chairman that that certainly needs to be corrected. We assume that you are.

Now on March 11, 1987, Mr. Hickey, you went through an organizational change which you announced at that time. What is the purpose of this organizational change? Is it for greater enforcement or investigation?

Mr. HICKEY. Primarily it is just that, Senator. What we have attempted to do is to strengthen our various bureaus, our Bureau of Trade Monitoring, to be aware and perceptive as to what is occurring in the trades throughout the world. We have strengthened our Bureau of Investigations in terms of training. We have sent them to the Federal training center in Glencoe, Georgia, to become more aware, more concerned with the practices of what is referred to commonly as white collar crime.

We have also strengthened our Bureau of Hearing Counsel whereby we have created a relationship between our investigators and our hearing counsel similar to Federal investigators with the U.S. Attorney's office. The investigators are guided by our attorneys within that office, so that we can more effectively go after these practices which are harmful to this industry.

Senator BREAU. Thank you, much.

Senator DANFORTH, do you have questions?

Senator DANFORTH. Mr. Chairman, I just have one question of this witness. Also, I have some written questions for a later witness, and I could submit those to be answered for the record.

Senator BREAU. Those will be taken care of.

Senator DANFORTH. Chairman Hickey, you have under consideration a matter relating to the 50-mile rules. Is that right?

Mr. HICKEY. That is correct.

Senator DANFORTH. I have had a constituent interest expressed in this matter. What is the time table for a decision?

Mr. HICKEY. Well, as you are aware, Senator, the issue of the lawfulness of the 50-mile rule has been the subject of extensive litigation for nearly 15 years. It has been heard twice in the United States Supreme Court. Last year the Commission heard oral arguments from all parties affected by the 50-mile rule.

During the end of last year, there was rather involved negotiations between the ILA and others that perhaps could have cleared up and rectified some of the confusion. It did not happen.

The Commission now expects to consider the 50-mile rule next month, in April, and at that time we should clear it up.

Senator DANFORTH. "To consider it" meaning? When would it be resolved?

Mr. HICKEY. Well, we will hear it and consider it in April, and I would say about a month-and-a-half thereafter we will issue an order.

Senator DANFORTH. Thank you.

Thank you, Mr. Chairman.

Senator BREAUX. Thank you, Senator.

Let us talk about the Canadian situation that has been around awhile where cargo originates here, or is destined for a U.S. port, but if it is run through Canada you do not have to file the tariffs. Some have told me that as much as 45 percent of the cargo is run through Canadian ports, thereby getting around the tariff filing.

If that is correct, is that not a problem? And if it is a problem, what are we going to do to correct it?

Mr. HICKEY. Well, on a normal basis we do not monitor at the Commission the transport of containers moving on a crossborder basis.

Senator BREAUX. Why not? Why would we not monitor something like that, if it is getting around tariff filing?

Mr. HICKEY. Well, if it is a problem I believe it would require some legislative changes. We have discussed this at the Commission, and it appears to be somewhat of an offsetting type of activity. There are different practices occurring in different parts of the country.

General counsel, would you care to comment on what perhaps would be required?

Mr. BOURGOIN. Well, I would only repeat that we do not know the extent of this problem, if it is a problem.

Senator BREAUX. How are we going to find out about it? Who do I call up in the government and ask if this is a problem, if it is not the Federal Maritime Commission?

Mr. BOURGOIN. We do not collect those kinds of statistics.

Senator BREAUX. Who does?

Mr. BOURGOIN. I do not know, sir.

Senator BREAUX. Well, some people in the private sector say that this is a big problem: 45 percent of the cargo moves through the port of Montreal. And I say, let me see if this is a problem or not. Whom do I ask?

Mr. BOURGOIN. My understanding is, that on the West Coast the movement is just the other way. In other words, the Canadian origin—

Senator BREAUX. Well, that does not have anything to do with your telling me whether the problem on the East Coast is indeed a problem or not. It is not sufficient to say we have got a problem on the East Coast, but do not worry about it because the West Coast is doing something different.

Mr. BOURGOIN. I am sorry, I cannot respond. I do not know the answer to the question. We understand from the ports on the East

Coast that it is a problem, but we do not maintain those kinds of statistics.

Senator BREAU. Where do I go? Give me some suggestions as to someplace to call? Do I call the industry? Do I call the ones who think they are being ripped off by it? Or do I call the ones who like it? Which ones do I call?

Mr. HICKEY. What I could suggest, Senator, is if we could look into this and reply.

Senator BREAU. If you do not keep records on it, how are you going to respond?

Mr. HICKEY. Well, what I am saying is to look into the problem. If a problem does exist, then we could perhaps make recommendations as to how to solve it.

Senator BREAU. One shipping authority estimates that at least 45 percent of the cargo moving through Montreal is U.S. cargo. Assume that is true for the sake of argument. Then is that a problem?

Mr. BOURGOIN. For U.S. shippers?

Senator BREAU. For the industry, for the ports and liners serving them.

Mr. BOURGOIN. For the industry, it might. For U.S. shippers it might not, to the extent they may be getting lower rates out of Canada.

Senator BREAU. What effect would it have on the ports, which is obvious?

Mr. BOURGOIN. It could have serious impacts on east coast ports, if those numbers are correct.

Senator BREAU. You see, we have a real potential problem, and we ought to know whom to ask about it? I think it is a bad problem if the information that they are telling us is correct.

Mr. BOURGOIN. Maybe what we can do for you, sir, is to try to find out who might have the answers to the questions that you are asking, and maybe get the kind of information that you are seeking.

[The following information was subsequently received for the record:]

Information on the amounts of United States origin or destination cargoes that move through Canadian ports is maintained by the Maritime Administration's Office of Market Development.

Senator ADAMS. Mr. Chairman, would you yield for a question on that?

Senator BREAU. Certainly.

Senator ADAMS. You might look at the operation which leaves out of Seattle and either goes land cargo to Vancouver where it is picked up shipping-wise, or else you can have ports of call which avoid the Jones Act entirely coming in out of Vancouver. I am surprised you do not have any statistics on it, because it has basically put our liner service out of business in that whole area. I do not know anybody who can compete with that Vancouver connection, because you are only 90 miles away. So in the course of looking at it, I can suggest, or my staff can, some names of people who will give you the information on the cargo movements because they are traceable easily out of the port both by rail and by liner.

I am just surprised you did not have that information. Thank you, Mr. Chairman.

Senator BREAUX. I would like the FMC to tell us where we can find the information. I mean, we are going to have witnesses who are going to testify that it is a very serious problem; and for us to be able to look at it we are going to need to have information.

Obviously it helps some; obviously it hurts others. Whether we should take any action, we are going to have to know first of all what the facts are. That is what we are trying to be able to find out.

The second thing is that the Shipping Act of 1984, reaffirmed the requirements that liners in our international trade file the tariffs, to ensure non-discriminatory treatment of shippers, ports etc. But it also approved service contracts.

I do not think that anyone intended that the service contracts would replace the tariff filings, but it seems that we are having a very large volume of service contracts being entered into. I am wondering if you can give us any kind of an indication as to the volume of cargo moving under tariffs versus the volume of cargo moving under service contracts.

Do you see anything in what has happened since the 1984 Act that has given you some concern?

Mr. HICKEY. Not necessarily concern, Senator, but we would be happy to submit that for the record, the numbers and facts as we have gathered them since the implementation of the Act.

[The following information was subsequently received for the record:]

The Federal Maritime Commission does not maintain statistics on the volume of cargo moving under service contracts. In fact, such statistics do not exist in the public domain. From the Bureau of Census statistics we can determine the volumes of cargo moving in the oceanborne trades, but Census does not distinguish between cargoes moving via service contracts versus tariff rates.

The information that we do have about the amount of cargo moving under service contracts comes from three sources: industry contracts; the Carrier Survey sent to liner operators as part of the Section 18 Study; and the responses thus far to a rate questionnaire sent conferences, again for the Section 18 Study.

From industry contracts, it is our understanding that the volume for which service contracts account ranges from as much as 80 percent of the inbound Japan trade to virtually zero in the Brazil trade. In both the European and Asian trades, many more service contracts have been entered into in the inbound trades than the outbound trades. One reason for this disparity is that rates are depressed in our export trades so that shippers haven't had to worry about locking in rates that may rise in the future.

Liner operators were asked for information on the percent of their revenues earned in 1985 from service contracts as part of a Carrier Survey. For those carriers that had service contracts, the majority reported that for their export trades, between 1-20 percent of their revenues were earned from service contracts; for imports, the two most frequent responses were between 21-50 percent and more than 50 percent.

Our final source of information comes from responses to questions in a rate questionnaire sent to conferences. Certain conferences are providing information on what percentage of specific commodities are moving via service contracts. Thus far, we have received data only on the outbound European trade but we should be receiving information later this year on the Asian, Australian and other European trades. Of the 14 major moving commodities we are tracking in the outbound North Atlantic trade, six were moving predominantly under service contracts. The range of the amount of the six commodities moving under service contracts was from 60 to 100 percent. When the data for the inbound European trades are received, we expect the number of commodities moving under service contracts to be even higher.

The Commission does maintain statistics on the number of service contracts filed in our trades. From 1984 to 1987, the numbers of service contracts filed at the Commission are as follows: 1984 (from June 18, 1984)—460; 1985—3,186 (247 filed through February 23, 1985); 1986—3,905 (1,061 filed through February 22, 1986); and 1987—1,086 (through February 19, 1987).

Since many service contracts expire on December 31, we experience an upsurge in filings in the first months of each calendar year. Our experience in 1985 did not reflect such an upsurge, i.e., only 247 service contracts were filed between January 1 and February 23, 1985. It is worth noting that service contracts were still a relatively new option for the industry at that time. For a pattern to emerge based upon a previous full calendar year of filings, we look to the period between January 1 and February 22, 1986, when 1,061 of the 3,905 service contracts received within calendar year 1986 were filed. We experienced a similar upswing in early 1987 filings, and we believe that the total volume for 1987 will be in the neighborhood of those for 1986. Also, it should be noted that the structure of the service contract system is undergoing change because, in early 1986, the Asia North American Eastbound Rate Agreement (ANERA) and the Transpacific Westbound Rate Agreement (TWRA) took control over their members' service contracts. Prior to that, each member line could establish its own independent service contract. The impact of this change may be significant. It is our understanding, for instance, that since they asserted jurisdiction, the Transpacific Westbound Rate Agreement has not negotiated a single service contract.

Senator BREAU. What about the tonnage? Do you have any figures that indicate the amount of tonnage moving under service contracts versus that moving under tariffs?

Mr. HICKEY. The Commission does not maintain statistics on the tonnage.

Senator BREAU. Would that not be helpful if you did?

Mr. HICKEY. But we would be happy to submit that for the record based on other sources that we might gather.

Senator BREAU. With all the new computers that we are going to be getting, and all the new automation on tariffs, would it not be helpful to have information with regard to the amount of tonnage as opposed to the number of contracts?

Mr. HICKEY. It would be.

Senator BREAU. It is really meaningless if you have the numbers but it does not reflect the tonnage, is it not? I mean, you can have one contract that may be worth 100 other contracts in terms of the volume of cargo, which is what we are really interested in. We are looking at the amount of tonnage that is being moved, not the number of separate contracts that are being filed. Is that not right?

Mr. HICKEY. It would be, and I think as we move into automation that these figures on these questions will be much more readily answered.

Senator BREAU. You see, the concern I have is that there has apparently been a great increase in the service contracts, and in the volume of cargo carried under service contracts. I do not think anyone intended them to replace the tariff filings. I am trying to find out how much is moving in a different direction.

I guess you are telling me that we do not know? Right?

Mr. BOURGOIN. We know some of it.

Mr. HICKEY. Some of it.

Mr. BOURGOIN. We could not tell you for every trade, Senator, what it amounted to.

Senator BREAU. Am I asking a realistic question about this?

Mr. BOURGOIN. You are, sir. It is a realistic question. It is a question we are asked quite often. It is just that we do not have that

information. The only way we could get it is to require the carriers to submit it, and we try not to burden carriers with those kinds of requests unless it is absolutely necessary.

Senator BREAU. It does not sound real burdensome to ask how much tonnage is being moved?

Mr. BOURGOIN. Well, they do not like to—they usually do not like to honor those kinds of requests.

Senator BREAU. Well, you are the regulatory agency. You do not call them up and say "what can I ask you?"

Mr. BOURGOIN. No, we can tell them to respond to it. But that is where we would have to get the information.

Senator BREAU. That is the second thing that I thought was pretty simple information that we do not have.

Are there any other questions?

[No response.]

Senator BREAU. Gentlemen, we may have additional questions by both Senator Adams and Senator Danforth, as well as maybe some additional ones from the Committee. We want to work closely with you. When you do something, we would like to know about it. I use that in a very cooperative spirit. We do not just want to meet once a year. We want to meet during the year; it is very important.

With that, this panel will be excused.

[The statement follows:]

STATEMENT OF HON. EDWARD V. HICKEY, JR., CHAIRMAN, FEDERAL MARITIME
COMMISSION

Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you today to testify in support of S. 800, a bill to authorize appropriations for fiscal year 1988 for the Federal Maritime Commission.

With me today are Vice Chairman James J. Carey, who has, for the past several years, headed a task force to automate the Commission's tariff filing system, a project that represents the most significant increase in our budget; Edward P. Walsh, the Commission's Managing Director; Robert D. Bourgoin, the Commission's General Counsel; and Frederick F. Trutkoff, the Director of the Commission's Office of Budget and Financial Management.

Before addressing our specific budget request, I would like to make one point. The Federal Maritime Commission is a regulatory agency. We do not administer any grant programs and, as a result, we exercise very limited discretionary spending. The Commission's budget is strictly an operating budget. Personnel costs, including salaries and benefits, constitute approximately 80 percent of the total budget.

The Federal Maritime Commission is requesting \$14,500,000, for fiscal year 1988. This will provide funding for 216 workyears of employment, and represents an increase of \$2,553,000 above our anticipated appropriation for fiscal year 1987, including supplemental appropriations for pay and retirement. This increase includes: (1) \$478,000 for payments to the Federal Employees' Retirement System; (2) \$73,000 for two additional workyears; (3) \$296,000 for GSA rent increases due to increases in cost per square foot charges in Washington, D.C., as well as our field offices; (4) \$276,000 for "built-in" costs related to the annualization of civilian pay increases, automatic within grade increases, and other nondiscretionary administrative expenses; and (5) \$1,430,000 for the design and initial procurement of a prototype automated tariff system.

I would now like to address some of the major activities included in the proposed budget for 1988.

Last year, the Commission conducted a feasibility study for implementing an automated tariff filing and information retrieval system to replace the Commission's present manual system for receiving, filing, and analyzing the hundreds of thousands of tariff pages we receive annually. This study was conducted by a private consulting firm over an eleven-month period based upon input from a variety of sources, including an advisory committee composed of representatives of the agency, the information industry, the transportation industry and the shipping

public. Through the study and the three meetings of our industry advisory group, a consensus was formed that tariff automation is feasible and desirable.

There are several reasons why an automated tariff filing system is necessary. The sheer volume of tariff pages at the Commission is making it increasingly difficult to carry out our Congressional mandate to examine and file tariffs as they are received, as well as to analyze the data contained therein. Automated tariff information would be readily available to the Commission's staff, including our field offices, greatly enhancing our surveillance, enforcement, and trade monitoring efforts. For example, a carrier's inordinately large market share, when compared to that of a competitor with a similar tariff rate, could indicate unlawful rebating or other malpractices. Further, coordinated low tariff rates by a group of carriers could indicate the possibility of predatory practices against competing carriers. Reliable, accurate, and easily accessible tariff information would also greatly assist the Commission in monitoring the practices of state-owned carriers that have chosen to compete in our trades. Tariff information also has a great deal of economic and competitive value of shippers, carriers, and others involved with the ocean transportation industry. The ability to rapidly file, retrieve, and evaluate tariff information has the potential to produce significant efficiencies in the private sector. Lastly, section 18(a) of the Shipping Act of 1984 mandates that the Commission, for five years, collect and analyze information on increases or decreases in the level of rates. This would be facilitated by the availability of automated information, simply because of the immensity of the data base involved.

Like most price lists, tariff rates are constantly changing as new services are added, as new commodities enter our commerce, and as the natural dynamics of competition and the free market dictate changes. Today, we have roughly 4,500 tariffs on file at the Commission, some literally the size of Manhattan, New York telephone directory. Each time a change is made, a new page is filed. As the tempo of the international business arena increases, there is a corresponding increase in the number of tariffs on file at the Commission and the volume of annual filings. In 1965, there were about 2,300 tariffs on file, and only 8,400 tariff pages containing rate changes were filed during that year. This year, approximately 700,000 pages will be filed with the Commission, reflecting over 3 million separate rate changes. This increasing paperwork has become overwhelming, especially in light of our current system of maintaining tariffs. We now manually insert new tariff pages and reprinted pages into three-ring notebooks, which are then kept in a large room for public inspection. One could compare this operation to the telephone company re-printing a page of a directory every time a telephone number is changed or a new subscriber is added.

In an attempt to remedy this problem, the Commission will soon enter into the next phase of its tariff automation project. This will include a cost-benefit analysis and, depending on the results of that analysis, the possible preparation of a request for proposals for the development of a system.

If justified by the cost-benefit analysis, we intend that, by the end of fiscal year 1988, a pilot or prototype automated tariff filing system will be operative, the detailed structure of which cannot be determined until after the RFP procedure has been completed. The \$1,540,000 we are requesting for fiscal year 1988 will enable us to procure the selected prototype and operate it, in conjunction with several volunteer carriers, conferences, freight forwarders, and shippers who have indicated a desire to participate. The objective is to have a full system operable during fiscal year 1989.

One of the many requirements the Shipping Act of 1984 places on the Commission is that it assess the impact of the Act on the international ocean shipping industry. The information to be collected relates not only to increases or decreases in tariffs, but also to changes in common carrier services available to ports, the number and strength of independent carriers, and the cost of major regulatory proceedings before the Commission. During fiscal year 1988, the Commission will continue to collect and analyze data on the impact of the 1984 Act, and begin the preparation of the report required by the Act. Various industry groups have agreed to assist the Commission in its attempt to collect accurate, meaningful data for its report. Thus far, a shipper study group, a carrier study group, and a port study group have been organized for these purposes. These groups will be helpful in ensuring that the rate information, survey results, the data on service levels are collected in an appropriate fashion for submission.

The recent bankruptcy petition filed by United States Lines, one of the few remaining U.S.-flag ocean common carriers, illustrates all too well the extremely competitive environment our merchant fleet faces in what is truly a global market. We at the Commission are very deeply concerned with the serious downward trend in

American shipping and the profound implications this has on the defense of our nation. While the Commission does not directly promote the interests of the U.S.-flag fleet, its administration of the shipping statutes, particularly the Shipping Act of 1984, can provide the U.S.-flag fleet with an equitable environment in which to compete and, thereby, improve its chances of survival.

However, if the Commission is unable to adequately enforce the shipping statutes, U.S.-flag carriers could be severely disadvantaged. In that case, the foreign-flag carriers, which have chosen to enter our trade because of its size and value, could freely engage in practices such as rebating or predatory pricing which, while possibly acceptable in foreign trades, are prohibited in our trades. Unless United States law is enforced effectively and fairly, the U.S.-flag carriers' position may be severely weakened vis-a-vis their aggressive foreign-flag counterparts. I do not believe that Congress intended or will countenance such a result.

The Commission has recently taken several steps to improve its ability to enforce the Shipping Act of 1984. We have completed plans to reorganize our bureaus and offices so that we can better respond to the mandates of the 1984 Act and our altered role thereunder. As part of this reorganization, our enforcement program has been restructured, placing more of an emphasis on targeting major industry malpractices. We have also instituted a formal training program for our investigators. This involves attendance at training seminars on investigative techniques. This effort, as well as instruction on specific industry malpractices, will be expanded to include not only investigative personnel but also attorneys involved in enforcement matters. We have also recently hired new personnel for our enforcement program. This is the first such hiring in several years and we plan to continue this effort in fiscal year 1988.

Equally important to the Commission's enforcement program is a new trade monitoring system which we have developed under our new reorganization. This program will allow the Commission to gain information concerning the effects of competition in major U.S. trades, and will provide a focus for our enforcement efforts, through the analysis of economic and trade data.

At a time when foreign governments are taking increasingly bold measures to ensure the good fortunes of their merchant fleets, often at the expense of competing carriers, it would be particularly ironic if the United States could not protect its carriers from such actions. There are two provisions in our shipping statutes which allow the United States, through the FMC, to respond to adverse actions of foreign governments. Section 13(b)(5) of the Shipping Act of 1984 permits the FMC to retaliate if a foreign carrier or government unduly impairs the access of a U.S.-flag carrier to a trade between two foreign countries. Section 19 of the Merchant Marine Act, 1920 permits the Commission to react to unfavorable conditions in our foreign trades. With the increasing efforts of some foreign governments to bolster their own fleets to the detriment of others, the Commission anticipates that it will be called upon even more frequently to exercise its authority under these statutes.

Mr. Chairman, I would like to point out that over the last six years, the Commission's workforce has decreased from 360 workyears to 214 workyears. This represents over a 40 percent reduction at a time when some government agencies have had their workforces increased or at least remain static. I am aware of few other agencies which have absorbed such a large decrease in personnel, while at the same time experiencing no decrease in statutory responsibilities.

The Commission and its 214 employees have the responsibility for regulating the transportation of cargo by liner operators in both the United States foreign commerce and our domestic offshore commerce, an industry which accounted for over \$181 billion of liner cargo in 1985. Administering the shipping statutes over such a large and vital industry is a significant undertaking. The Commission's 1988 budget request is responsive to both our statutory charter and the economic realities we all face today. The amount we are requesting in 1988, \$14,500,000, is the same as that approved by OMB and provided in the President's proposed budget and included in S. 800. Mr. Chairman, I therefore urge your favorable consideration of S. 800.

Senator BREAU. We would like to welcome our next witness, the Honorable John Gaughan, who is Administrator of DOT, Maritime Administration, and anyone he wants to bring up with him.

Mr. Gaughan, we welcome you. We are pleased to receive your testimony. You may handle it however you see fit, introduce your colleagues and we will proceed.

STATEMENT OF JOHN A. GAUGHAN, MARITIME ADMINISTRATOR,
DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY
ELAINE CHOW, DEPUTY MARITIME ADMINISTRATOR; RICHARD
BOWMAN, ASSOCIATE ADMINISTRATOR FOR MARITIME AID;
AND ROBERT PATTON, ACTING GENERAL COUNSEL

Mr. GAUGHAN. Thank you very much, Mr. Chairman.

Mr. Chairman, Members of the Committee, I am accompanied today by Ms. Elaine Chow, the Deputy Maritime Administrator; Mr. Richard Bowman, Associate Administrator for Maritime Aid; and Mr. Bob Patton, the Acting General Counsel.

Mr. Chairman, with your permission I would like to submit my prepared statement for the record.

Senator BREAU. Without objection, but it is really short. Do not summarize it too much; I want to hear it.

Mr. GAUGHAN. In that case, sir, I will summarize it for you. I was going to address a number of comments that were made by yourself and Mr. Adams as an opening statement.

First of all, I would like to tell you what an honor it is to appear before this committee and the genuine commitment on the part of the Maritime Administration, and indeed the Administration, to try to work through the various problems and the serious problems that confront this industry to try to find long-term solutions.

You made mention, Mr. Chairman, in your opening remarks that your proposal S. 800 was meant to maintain the status quo as we try to work out these longer term problems, and you took issue with the State Maritime Schools and Title XI in particular.

While I will summarize the numbers and all, I would like to just make the following comments on those two areas if I could.

I am already on record, Mr. Chairman, as indicating that while the President's budget has proposed actions in both those areas, that as the Maritime Administrator I am very much aware of the sentiment of the Congress in regard to those two areas, and that I am prepared to work towards a long-term program on the State Schools, and to seriously look at the Title XI program and see what if any adjustments and reforms should be made to it. That is not going off the reservation, I do not believe, because I am already publicly on record as saying that.

With those preliminary remarks, Mr. Chairman, I will address specific provisions of S. 800 and the Administration's authorization bill.

Mr. Chairman, the first element of your bill is the operating differential subsidy liquidating cash in the amount of \$300 million. ODS is the primary means of Federal financial support for the competitive operation of the U.S. Flag Merchant Fleet engaged in the foreign commerce of the United States.

Authorization and appropriations are provided to liquidate contract authority under these long-term ODS contracts which the Administration continues to offer. The international shipping market in which our subsidized ship operators must compete has become increasingly depressed.

Thus, it is estimated that the cost to liquidate our contractual liability for subsidized ship operations will be \$247.1 million in 1987,

and about \$250 million for a comparable number of shipyears in fiscal year 1988.

The second element of S. 800 is for research and development activities of the Maritime Administration in the amount of \$2 million.

Mr. Chairman, the President's budget provides that fiscal year 1987 is the final year of funding for these activities. Emphasis is being placed on movement toward greater private sector initiatives in this area, and appropriations are not being requested for R&D in 1988, and therefore no request for authorization authority is being made.

The third element of S. 800 is for operations and training in the amount of \$74,797,000. Operations and training activities are divided into maritime education and training expenses, national security support capabilities, and other operations and training programs.

Both S. 800 and the President's budget provides approximately \$22.7 million for the Merchant Marine Academy, and \$1.2 million for additional training. S. 800 also provides \$10 million for financial and fuel assistance to the State Maritime Academies. That is not contained in the President's budget.

Both S. 800 and the President's budget provide \$13.800-and-some-odd million for national security support capabilities, including \$12.5 million for the national defense reserve fleet, including the RRF portion of the NDRF, and \$1.3 million for emergency planning operations. These MARAD program responsibilities are directly supportive of this country's national security responsibilities.

The NDRF program provides for the preservation and maintenance of NDRF ships, security of ships in the NDRF which includes RRF ships, and for the administration of the ship transfer and ship disposal programs.

The final element of the authorization request is for other operating expenses. S. 800 provides \$26.987 million for this purpose, \$2 million less than the President's request of \$28.987 million. This program provides for the direction and administration of other agency programs.

The budget figure reflects an increase of \$2 million for maritime studies; \$1.5 million for policy and program studies; and \$2.1 million for full-year costs of the 1987 pay raise and added cost of the Federal Employees' Retirement System.

Mr. Chairman, this is where I could use the \$2 million your bill would authorize for research and development. As I mentioned, the Maritime Administration does not require this authority for research activities, but we do need \$2 million for a number of maritime studies. These studies will ensure that the agency has solid information in the number of areas of crucial interest, including strategic military sealift, cargo handling, government preference shipping, maritime safety technology, waterway navigation development, NDRF-RRF wheat productivity management, maritime policy initiatives, and emergency port planning requirements.

Finally, Mr. Chairman, as I mentioned, the Administration has requested that Title XI authority be terminated for the Secretary of Transportation, and that would implement the President's budget.

Mr. Chairman, that concludes a quick summarization of the various elements of your proposal and the Administration's, and I would be pleased to answer any questions.

Senator BREAU. Thank you very much, Mr. Gaughan, for your statement and for your colleagues being with you.

The first big change is the operating differential subsidy request. Instead of requesting an amount, you request such sums as are necessary. I am not sure whether that is good or bad, but I get the real concern that if we just write a blank check, so to speak, and let you fill it in as you need it, that there goes the oversight.

I mean, it makes it more difficult for the committee to exercise oversight if we give you whatever you need, and you do not come back and see us or talk to us. Is it not far better to put in a lower amount, and if you need more to come back? Heaven forbid they would ever give you too much.

Mr. GAUGHAN. Mr. Chairman, the——

Senator BREAU. Is this OMB's idea? Let us be candid. I mean, will it help them with reducing the deficit by putting a zero by ODS?

Mr. GAUGHAN. This was not necessarily foisted on me by OMB, Mr. Chairman. There was a debate over whether or not ODS fell within the ambit of Gramm-Rudman-Hollings. As we pursued that and came to the conclusion agreed to throughout the government that these were not subject to Gramm-Rudman-Hollings because they are to liquidate contract obligations, the natural flow from that was that if they are in fact to pay contract obligations that you have long term, that it made sense to request a permanent and definite authority.

It was in no way intended to circumvent or to undercut the committee's oversight responsibility.

Senator BREAU. What is the advantage of it, from your perspective?

Mr. GAUGHAN. The advantage of it is simply one of flexibility. That in fact—let me back up and explain what I mean by that. I have seen the projections of what our estimated ODS costs would be in given years fluctuate radically with the international maritime situation.

Senator BREAU. Well, that is sort of contrary to the statements I remember you folks making in the past when you used to tell us that the margin of error on ODS suggestions was marginal.

Mr. GAUGHAN. I am not sure.

Senator BREAU. We used to ask these questions in the past and say how close is this to what you think you are going to really need? And I remember statements coming back saying that the margin of error was just marginal. It was not a real problem. Here is something right here. The answer to the Appropriations Committee question that Senator Inouye submitted. The question was, what do you perceive to be the margin of error in determining what amounts of ODS is necessary?

Answer: The United States differential in wages, insurance, maintenance and repairs is constructed through careful statistical comparisons with foreign competitors. Given the diversity of the competition, the trades, and the data involved, the need for stand-

ardization, some imprecision undoubtedly exists, but this margin of error is regarded as modest.

Mr. GAUGHAN. Mr. Chairman, that—

Senator BREAUX. Now you are telling me that it is such a wide margin of error that we need to have "such sums as necessary to be appropriated." Which one is correct?

Mr. GAUGHAN. Mr. Chairman, that answer responds to a question as to how accurate we think the determination between an ODS payment to an operator and their foreign competition, rather than the aggregate of how the trade is doing, and so forth. So that answer is in response to a specific question.

Senator BREAUX. Well, I am not going to belabor the point. I am not saying what you are suggesting is good or bad. I just had never felt that it was a problem, us giving an authorization at a certain level for ODS. Now we are making a rather dramatic change and saying just give us a blank check and we will spend it wisely.

My concern, and I think the members of the committee's concern, is that we do not like doing that. You are terminating programs right and left, and in this one you say give us a blank check. Whatever we need, we will use.

Mr. GAUGHAN. The only situation where it potentially becomes a problem from my standpoint under the present system is if in fact the amount appropriated is less than what it turns out to be—and we are talking about fiscal year 1988 right now—if the appropriation does not match what actually happens, then our operators could find themselves where they have legitimate costs that they have submitted to us, and we do not have the money.

Senator BREAUX. Has that ever happened before?

Mr. GAUGHAN. It has happened, yes, sir.

Senator BREAUX. How many times?

Mr. GAUGHAN. At least once in my short span of memory in the early 1980's.

Senator BREAUX. You are projecting a surplus for 1987, are you not, in ODS?

Mr. GAUGHAN. Oh, yes. Right now given the worldwide situation, I do not expect that you are going to see that operators are using more than their authority.

Senator BREAUX. I am just not convinced that the problem is so severe. This year you are going to have a surplus, and you are saying well, we might not have enough, so we need an open-ended authorization.

Senator Adams?

Senator ADAMS. Thank you, Mr. Chairman.

Following up on the open-ended authorization, it is one of the things that Authorization Committees do not like for the reason that the whole jurisdiction then shifts to the Appropriations Committee.

I want to ask you this very specifically. Was there not a recommendation by OMB that if you use an open-ended authorization like this you can drop your budget authority from the fixed figure to zero and then pick it up later?

Mr. BOWMAN. No, Mr. Chairman. In fact what we did is took a look at the contracts, took a look at the long-term projection of those contracts, and in fact what the estimate of what the carriers

in fact would expend, or what would be required in order to finance the ODS with regards to each one of those carriers who put together the total number.

In fact, OMB has agreed to over the life of these contracts a total number. Essentially what we are saying is there is a total number out there, and each year there is drawdown against that total number.

Senator ADAMS. You are just saying there will never be any new contracts. It is only a drawdown, so it is absolutely mechanical. Is that what you are saying?

Mr. BOWMAN. I am not saying it is mechanical. You take a look at what they are presently operating under and say, if you look out there and those things essentially today continue, here is a sense of what that number is. We calculate it every year and indicate that we will provide as we have before.

Senator ADAMS. No, no. Let us go to the basic, which is that I can see how that would happen if you have a fixed number of contracts that are out and you are not going to enter into any new ones, you are simply liquidating them and you are saying to me, I believe that you have then an almost absolute figure because there is not going to be any extension of this program to other liner ships. Beyond that, there are not going to be any more. Is that what you are saying?

Mr. GAUGHAN. At the present time, it applies to the contracts in place, yes, sir.

Senator ADAMS. Yes. So there would not be any more.

What I am trying to find out is your basic policy, because it goes to what the Chairman's bill has, and I tend to support the Chairman's bill. Under his bill you have a program. You can keep track. You know whether or not there is available anything for additional operating contracts.

You have got an industry here that is shifting rapidly through bankruptcies, reorganizations, and so on. I think your testimony is that an open-ended authorization would mean that these big liner companies have no target to operate against, and you would fight them out each time in the Appropriations Committee.

So the ODS program would stop with whatever contracts are out now, and you would not have new ones available for the restructuring of the fleet.

Mr. GAUGHAN. It was not intended to be anything other than an effort to make that ODS system as responsive as possible to changing trade conditions, recognizing that we make projections two years in advance, and to ensure that all contract obligations were paid as they came due, sir.

Senator ADAMS. Now when you testified before the House Merchant Marine Committee, a great deal of concern was expressed by members of that committee—and I want to reiterate that concern here—that you are overemphasizing the Ready Reserve Fleet at the expense of the operational differential subsidy program.

In other words, it would be a short-term solution, and I just want to know what your underlying policy or program is. The Chairman's bill is directed toward maintaining the status quo in order that this Committee may have an opportunity to hear from the

various people, and I still have not gotten a clear statement from you on the ODS.

Are you in effect terminating it by sleight of hand? I understand you are trying to terminate Title XI directly and you are knocking out the Academies with a direct hand. So going back to the ODS, is this a "now you see it, now you don't"? Or do you have another explanation? I just want to know what the policy is so we know what to say when we are either in support of or trying to amend the Chairman's bill.

Mr. GAUGHAN. Sir, this was in no way intended to be a termination of ODS by sleight of hand. If anything, it was from my own standpoint an effort to make it absolutely clear that the government had a responsibility to meet the contract obligations of the ODS contracts that were out there, and to in fact insulate it from Gramm-Rudman-Hollings so that we did not find ourselves in a situation where operators who had a contract and who were performing were being faced with there not being enough money. It is absolutely not a sleight of hand effort.

Senator ADAMS. Then you would have no objection to the Chairman's flat authorization mark being placed in the bill?

Mr. GAUGHAN. Mr. Adams, it is higher than what our projected outlays are expected, but it is certainly, unless I am getting into a thicket as to budget questions, I do not have any problem with that, no, sir.

Senator ADAMS. I just wanted to be certain that you had no objection to his figure.

Mr. Chairman, I have no further questions.

Senator BREAUX. I have a question that we will submit on behalf of Senator Inouye, and ask that Mr. Gaughan respond to Senator Inouye's question.

[The following information was subsequently received for the record:]

Question. It is the Administration's position that U.S. vessels constructed abroad or reconstructed abroad should qualify for operating subsidy, is that correct?

If so, would you also support qualifying for subsidy U.S. registered liner vessels constructed abroad or reconstructed abroad which are already in existence for United States companies in the foreign trades?

Answer. It is the Administration's position that U.S. subsidized shipping operators should be allowed to use vessels acquired in the world market and still remain eligible for operating-differential subsidy under Title VI of the Merchant Marine Act of 1936, as amended.

The Administration's viewpoint on this issue was presented concisely in S. 1481, which was reviewed in the 99th Congress. The bill would have allowed the Secretary to authorize an operator receiving or applying for ODS to construct, reconstruct, or acquire its vessels outside the United States.

Although current ODS policy is to fulfill existing contract obligations but not to renew or enter into new subsidy contracts, revision of the Administration's position has been discussed in connection with reform of the ODS program. Thus, the issue of subsidizing new operators with existing U.S. registered, foreign-built or reconstructed ships would have to be considered in the light of other elements of a broader ODS reform proposal.

Let us talk about support for maritime training and for the Merchant Marine Academy, and particularly for the State Academies. Once again, that old proposal has risen out of the ashes to terminate the support for the six State Maritime Academies.

It seems that the approach this year is, well, we have an oversupply of Merchant Marine officers, therefore we do not need to

help the State Academies. We will probably have other testimony that says we do not have an oversupply of qualified, capable, ready-to-go-to-work Merchant Marine officers.

The bill that I introduced has a little extra in it this year that says if they are going to graduate, they are going to owe some time to the U.S. Government. We are not going to give it to you free. We are not going to give you the help free. We are going to make you participate in the system if you are going to benefit from the money coming from the Federal Government.

What are we going to do with all this? Suppose all six Merchant Marine State Academies close down because of a lack of funding? Where would that leave us, in your opinion? Do they serve a purpose from a philosophical standpoint?

Mr. GAUGHAN. Mr. Chairman, that is why in my opening statement I offered to work with this committee to try and find a long-term solution to that situation.

At the present time under the budget austerity that we face, there is an obligation on the part of the Executive to identify those areas that ought to be examined and not just remain as a status quo. Certainly the State Academies was one of them.

The proposal to terminate it was probably in retrospect an inartful way of doing it because it has not led to the ability to have a reasonable-man debate on the issues.

Senator BREAU. How did the recommendation to terminate work its way into the system? From your shop? From DOT? From OMB? From where?

Mr. GAUGHAN. In the preparation of the fiscal year 1988 budget, that recommendation crept in at the Office of Management and Budget level. We can take it back before that, Mr. Chairman, to the President's veto of last year's authorization bill that cited the State Academies and Title XI as the basis for that veto.

Senator BREAU. You know, I think it is an example of somebody at OMB looking at it from a dollar standpoint and not from an effectiveness standpoint. The studies that we have are voluminous about manpower shortages. I mean, the Navy's own Merchant Marine manpower study of July 2, 1986, talks about manning shortfalls are predictable, the availability and requirements having a shortfall in 1986 of 3,456 officers, projected predicted shortfall in 1992 of 8,126—this is the Navy's study.

I mean, the ink is not dry on that study. It tells us that we have a substantial shortfall. Then the statement that OMB must have wrote says, "Due to the oversupply of Merchant Marine officers, we are not supporting any payments."

Now somebody is totally wrong. I mean here we have got a 3,456 officer shortfall, or we have got an oversupply. There is no in between. Who is right? I mean, we have got to make a decision on funding. One Department that has studied it, the Navy, says we have got a heck of a shortfall. You are being sent up here at the behest of someone at OMB who probably has not read the Navy's study, and OMB makes you testify that we have an oversupply.

Do we have an oversupply? Is the Navy wrong? How do you answer those questions?

Mr. GAUGHAN. Mr. Chairman, right now of available jobs on an annual basis there is probably about—you need about 400 new offi-

cers to come into the work force and find positions. The Merchant Marine Academy, the State Maritime Academies, and the Union schools, we are probably putting maybe 1,200 into the pipeline.

So when it talks about an oversupply of officers, we are looking at the current economic environment and job opportunities. When you look at that manpower study, the projected shortfall of 8,000 or whatever indicates that there is about a 1,500 shortfall in the 1992 time frame.

The output from the existing programs I feel is sufficient to meet that.

Senator BREAUX. Well, in order to justify the termination of assistance to six Maritime Academies, the information that you have been forced to present does not justify it in light of the last current study that we have from the Navy that projects a substantial shortfall in officers.

We can get into a lot of discussion on how you classify people who are ready to come into the system. Are they really ready, or are they capable, etc. These classifications are subject to a lot of different interpretations which give us different numbers perhaps on what is sufficient for a ready reserve fleet.

But I think to come in and be forced to say, due to the oversupply of Merchant Marine officers we are going to terminate the program, in the light of the only study we have that says we are going to have a shortfall, is not building your case to get Congress to agree with what your recommendation is in this particular area.

Mr. GAUGHAN. Mr. Chairman, if I might, the issue here is the cost of the operation of the school ships and the potential replacement costs down the road. In my opinion, that is clearly the issue you are looking at down the road if you maintain the status quo of a substantial cost to the Treasury to replace the school ships that are in operation.

What I had proposed on the House side—and I by no means mean to tell you that the State superintendents agree with this proposal—what I had initially proposed in the fiscal year 1988 budget was a ship sharing program. The idea of a ship sharing program was to take the high cost of those ships in terms of the cost of maintaining them and so forth, and trying to get more than two or three months each year out of them at sea.

I recognize that the State Academies do in fact use them when they are ashore side as laboratories and all, but have indicated to them—and in fact have already provided to the Massachusetts Maritime Academy—an offshore supply boat that I have gotten back in Title XI default.

Senator BREAUX. You have got a lot of those.

Mr. GAUGHAN. Yes, sir. That we have chartered to them at next to nothing for their use as a lab, a diesel lab, and so forth.

Senator BREAUX. Well, we can argue about the merits of that concept and that proposal. That is a constructive suggestion. Termination of the program I would say goes to the other extreme, in light of some of the statistics that we have seen.

We will ask the schools about it, but I think OMB is missing their mark when they are talking about the reasons for the termination. It may be that they will come back and say they just do not have the money. I would rather have them say that than say that

we have an oversupply of officers, when studies indicate that that is not a correct statement.

Let us talk about the Title XI—Senator Adams did you have a question? I have one more area I needed to get into.

Senator ADAMS. No, please go ahead on Title XI.

Senator BREAUX. The Title XI Guarantee Program.

You know, when we read about what other countries are doing, we sit back and scratch our heads regularly saying how come the Japanese and the Koreans and the Taiwanese are all doing so well. It is surely not surprising if you look at the circumstances. We have seen recent articles about their governments' taking extraordinary methods and steps to aid their ship building industries, which they say are "ailing." I wish ours were ailing like theirs are.

But the government is doing something to help them. Our ship builders are many, many times worse off than those are, yet their government is moving in to help keep them going, to provide jobs and employment.

Here this morning our government, through your testimony, is saying we are getting out of Title XI. We are terminating it. I wonder if we will go to lunch today and sit and scratch our heads again and say how come the Japanese and the Taiwanese and the Koreans are doing so well? When our posture as a government is that we are going to eliminate the one major program that up until two years ago never lost money.

Is the decision on the termination of Title XI your recommendation?

Mr. GAUGHAN. No, sir, it is not.

Senator BREAUX. Was it Secretary Dole's recommendation?

Mr. GAUGHAN. No, it was not.

Senator BREAUX. So once again we have OMB coming in and saying—at least they did not say that the conditions are so good in the U.S. ship building that we do not need Title XI. I mean, they made that argument on the State schools, but even they were too embarrassed to try and say that the U.S. shipyard business was so good we do not need Title XI again.

I think just for the record, because I think it is important to try and establish where we are—when was the first year we started having problems? 1985? Up until that time we really had not lost any money on Title XI, had we?

Mr. GAUGHAN. That is about right, sir.

Senator BREAUX. And basically the bulk of your losses have been in energy-related Title XI loans of supply vessels, work boats, crew boats, LNG's—

Mr. BOWMAN. Rigs.

Senator BREAUX. Offshore drilling rigs. And everybody in that business across the board practically is losing money right now. So the program with the exception of that has really been a financial asset actually to the U.S. Treasury, has it not, with the exception of the energy loans since 1985 and 1986?

Mr. GAUGHAN. It certainly—

Senator BREAUX. It has paid for itself.

Mr. GAUGHAN. Up to that point, that is correct; yes, sir.

Senator BREAUX. Statistics show us that during the years 1985 and 1986 we sustained a \$1.375 billion loss. All but \$300 million of

that was attributable to the energy industry, the ships we just mentioned, LNG's, the drilling rigs, the offshore supply boats, et cetera.

Can you give us an idea of what the \$300 million was attributable to outside of the energy losses that you have on the books?

Mr. GAUGHAN. That applies to inland barges, a number of ocean-going vessels in the liner industry, sir. I can give you a specific breakdown.

Senator BREAU. Why do you not try and give us that for the record, then, to show what areas other than the energy-related areas that have sustained some losses in 1985 and 1986.

[The following information was subsequently received for the record:]

FY 1985 and 1986 Non-Energy Related Title XI Defaults

	<i>Millions</i>
River tugs and barges.....	\$128.1
Liner vessels.....	66.7
Miscellaneous (\$9.2-dredges, \$63.9-incinerator vessels).....	73.1
Ocean tugs and barges.....	119.1
Total.....	387.0

Senator BREAU. The act, and I know you and I have discussed this before, section 207 of the 1936 act authorizes MarAd to contract, protect, and improve the collateral that you have. Does this provision in the act empower you as Administrator to assist companies that need help from defaulting on a ship mortgage guaranteed under Title XI? Is that what the purpose is?

I am trying to find out the extent of your authority under section 207 to protect and improve the collateral which you have for these Title XI guarantees. What is the extent of your authority? Do you interpret it to be passive? Do you interpret it to allow you to take actions which would make the condition of your collateral improved over what it is?

Mr. GAUGHAN. We do not view our role necessarily as passive, and have in fact involved ourselves in any number of restructurings. We have been involved in Title XI advances when the circumstances have in our opinion warranted it. One of those circumstances say for an advance was that based on our assessment that that company that needed it was going to be able to come out of that difficulty say in two years.

So we make those kinds of judgments so that we are not just pouring money down a rathole. But I do not view that we have necessarily been passive.

Senator BREAU. How do you answer the charges I guess by some that would say, well, OMB has said, look, we want out of this program. We are just going to tell MarAd to be tough and hard, and push people into default, because ultimately we want to move away from this program. Do not help them. Do not extend help.

Now I know you are going to say no one has ever told you to do that, but is there a feeling that you get from people within our own government that they want out of Title XI, and therefore, John Gaughan, do not do anything to keep it afloat? If we show Congress it is going to lose all this money, well, then, we can get rid of the program?

Mr. GAUGHAN. Mr. Chairman, I am going to tell you I have never heard from OMB in that regard. I am also going to tell you that if I had, I would tell you that I had. That has not been—that has not been the mandate or the direction that I have been tasked with or charged with by the Secretary of Transportation, or indeed anyone above her.

We have in fact worked probably harder in that program than some of the folks were used to when it was the good times in trying to help companies, recognizing the fiscal responsibility that we have, to restructure, work their way out, and so forth.

In doing that, you also have to recognize that those efforts have to be constrained in some regards because you also have a responsibility to the larger markets that are out there. So you cannot—we are very careful not to cut side deals with one individual that then end up having to become the norm for the rest of the industry and just make the situation worse for them.

Senator BREAU. How much is it costing our government to store, maintain, seize the vessels that have been seized through defaults under the Title XI program?

Mr. GAUGHAN. I am not going to have that number at my fingertips, sir. We can provide it for the record.

[The following information was subsequently received for the record:]

On a fully distributed basis our monthly costs (storage, maintenance and insurance) approximate \$1,000,000.

Mr. GAUGHAN. It is going to vary, because in many cases vessels that have defaulted have not yet been foreclosed on where we do not have control of it. It varies by market. A river barge you can push into the bank and it costs you next to nothing to keep it in relatively good shape. On the other hand, a drill rig is going to cost you an awful lot of money on a daily basis.

We have arrangements where some operators have custodial agreements with us where they in fact are paying the layup costs and so forth on defaulted equipment.

Senator BREAU. Two quick last questions, then. How much do you have programmed for storage costs? Is there a figure in your budget authorization that says how these costs are paid for if it is not in an item-line submission saying we need blank millions of dollars to store all of this equipment that we now own?

Mr. BOWMAN. Mr. Chairman, the financing of—first of all, there is not a line item in the budget for that, because the money that is used for that is money that comes from the fees that are paid out of Title XI and for the sales. So from the fees that we get, half, three-quarters, up to the one percent of the guarantee fee for the outstanding obligations, plus the sales of the equipment, is used to pay the costs not only for the administration of the program but also for storage for as much as we need.

At the present time, it is not a very large number. We do not put it in the line item, because it is an unknown number. We hope to take the equipment over as fast as we can and either sell it or maximize storing it all together so we can minimize the costs.

Senator BREAU. Well, you must have literally hundreds of thousands of pieces of equipment just from the Gulf of Mexico that you are storing somewhere, do you not?

Mr. BOWMAN. We have large volumes that still have not been arrested, most of which has not been arrested. Our largest volumes together are 100 barges in one place, and that is very low storage. The drill rigs, as we get drill rigs, that becomes an expensive proposition.

Senator BREAU. How about work boats, and crew boats, and supply type of vessels?

Mr. BOWMAN. We have custodians for those, and there are quite a few of them stored in a number of places. We can provide the exact number of what that is, but that is not a very high number. We have sold a lot of those.

Senator BREAU. I would like to see if you could—I know you do not have it at your fingertips—but get information that would show me how much equipment we actually have, and how much it is costing us to store it.

The last thing, have we taken care of the problem of bankrupt operators being allowed to continue to operate in competition with those who are making their payments?

[The following information was subsequently received for the record:]

As of April 13, 1987, MARAD has 516 pieces of defaulted Title XI equipment under its custodial care, broken down as follows:

Liner vessels.....	4
Lash barges	234
Ocean tugs and barges	14
Tankers.....	1
Drill rigs.....	11
Oil service vessels	75
River tugs and barges.....	174
LNG vessels.....	3
Total	516

On a fully distributed basis the monthly costs associated with maintenance, storage and insurance of these vessels approximate \$1,000,000.

Mr. GAUGHAN. We are making progress in that regard.

Senator BREAU. Do we still have operators that are technically in bankruptcy that are continuing to operate their fleets?

Mr. BOWMAN. Yes, sir, we do. Those were the ones that filed under Chapter 11 of the past bankruptcy code and were not governed by the new legislation. There are a number of them that are still operating out there, and we have argued very hard with the courts for adequate protection. We have not gotten very much, because we do not have much leverage with regards to picking up the equipment. But with the new bankruptcy legislation, there is much more leverage in the Administrator's hands.

The business of people defaulting on their equipment and then filing to keep us away from the equipment has dropped off dramatically.

Senator BREAU. It has dropped off dramatically?

Mr. GAUGHAN. Yes.

Mr. BOWMAN. Yes, sir. Because they know, based on the new legislation that you provided last year, that they can file after they default and then they essentially have 90 days in which to cure the default or provide adequate protection, then we have authority to lift the stay and take the equipment. So it has provided a very useful incentive to avoid what happened in the past.

Senator BREAU. Because the concern we had, or at least this Member certainly had, there were a lot of operators who were making their Title XI payments, that were being undercut by someone who was technically in bankruptcy and did not care whether they made a profit or not and were taking their business away, and thereby putting the ones who were in good shape in jeopardy because of not being able to get any business.

Are you saying that that is not a problem, or not as severe as it once was?

Mr. BOWMAN. It is not as severe as it once was. There are still some filings, but much greater leverage has been provided in the Maritime Administration to go in and lift the stay of the bankruptcy and pick up the equipment if adequate protection amounts are not provided for the default that has been paid off.

Mr. GAUGHAN. And certainly some of the most—I was going to say notorious—the most open operators that were in bankruptcy and to which we had no control over have now, those court proceedings have finally now ground to a halt where we have in fact gotten title back and husbanded the equipment, sold it out of the trade, identified whether it was worth putting it in a long-term layup so that when the market in the energy industry does turn that there are some relatively good equipment around that can be broken out.

Mr. BOWMAN. Mr. Chairman, if I might add, there is one thing we really are behind. Before we had the new bankruptcy legislation people would come in and say here is the restructuring I want. If you do not give it to me, I am going to file and take the equipment away from you. That is behind us.

Senator BREAU. They cannot do that now?

Mr. GAUGHAN. Well, they can, but then—

Mr. BOWMAN. They can, but the Administration, based on that new legislation, in 90 days we can lift the stay, which we could not do before that.

Senator BREAU. So they could only operate under that threat for 90 days?

Mr. BOWMAN. Yes.

Mr. GAUGHAN. That is correct.

Mr. PATTON. If I could just add, of course it is going to continue to have a judicial shakedown as to exactly what that statute means. We would be glad to keep you abreast, and the staff, with respect to the developments as it proceeds through the court. So far we have been relatively successful.

Senator BREAU. That would be very helpful. We really need to know whether that is working as it was intended. If not, what type of corrections it may need.

Mr. BOWMAN. There was one comment made by a Judge questioning a portion of that, and we will keep the committee posted on that.

Senator BREAU. Well, let us know, because if it needs a legislative fix, certainly this Member is willing to move in that area.

Ms. CHOW. Mr. Chairman, could I also add one last word?

Senator BREAU. Yes, ma'am.

Ms. CHOW. You had asked previously how hard we had worked at restructuring the number of our troubled loans. I would just like to add that we have gone through numerous rounds and worked with companies to reduce interest, or defer the principal payments on several go rounds. It might also be worthy to note that other owners who are keeping current with their debt service are even complaining that the government is restructuring their Title XI debt at all.

Senator BREAU. Oh, yes. You want to protect your collateral. You want to make sure that you treat everybody fairly and that it is not to the detriment of someone else who is doing their business.

Senator ADAMS has another question.

Senator ADAMS. Thank you, Mr. Chairman.

In particular, in the Title XI program I know you have some of the large vessels such as the LNG vessels. Have you fed those back into the fleet yet? Have you been able to settle those out? I remember those being some of the largest items you had in the entire inventory.

Mr. GAUGHAN. We presently have an invitation out for three LNG's for sale, and we are waiting for expressions of interest.

Senator ADAMS. Are those still within the litigation area that you mentioned? Or have you now possession and repossession of those vessels?

Mr. GAUGHAN. We have possession of those.

Senator ADAMS. What has been your success rate, and you can supply this for the record if you want, in percentage of collection that you have been able to make in your outstanding loans?

Mr. GAUGHAN. I would like to provide it for the record so as to give you the specifics, Senator. It has gone up and down.

[The following information was subsequently received for the record:]

MARAD's average recovery is approximately the following, based on a proportion of the pay-off amount:

	Percent
Inland barges	40-50
Oil service	20-30
Ocean tugs and barges	40-50

Senator ADAMS. Well, obviously as you get a particular point in time where you have either a termination of a bankruptcy or you have a reorganization under Chapter XI you are going to have a bulge at that point. I am just trying to get an idea of the size of that problem. Because it goes directly to whether or not you can continue to sustain a Title XI loan guarantee program, if your default rate is going to be the thing most argued in the Congress when this thing comes up.

Mr. GAUGHAN. We have an estimate for 1987 that the proportion of the payout amount recovered through sales, the payout fee in Title XI, is close to 30 percent. But that covers, Senator, I have to caution you, that that does cover all different types of equipment.

Senator ADAMS. Well, I understand. We need to have that breakdown, because it may be that certain portions of the fleet should be treated differently than others. We are concerned about the fact that as this program moves out and we will lose our capacity for ship construction. That capacity has basis in national security. We must be able to construct, repair, and maintain a Merchant Fleet.

We are trying to get somebody to give what vessels are being fed back into that fleet, and how much they are costing, and whether or not there is going to be an opportunity for any new vessels to be constructed.

Mr. GAUGHAN. I understand, Senator.

Senator ADAMS. Those are the statistics that we want.

[The following information was subsequently received for the record:]

From FY 84 to April 14, 1987, MARAD has sold 95 vessels which have defaulted on their Title XI debt, as follows:

River tugs/barges.....	50
Oil service.....	36
Ocean tug/barges.....	6
Bulk-tankers.....	1
Bulk-LNG.....	1
Miscellaneous.....	1
Total.....	95

Additionally, MARAD expects to sell approximately 100 more pieces of equipment this fiscal year (1987). MARAD has sold only 1 of the 95 vessels for scrap and that vessel was previously declared a total loss. None of the vessels expected to be sold during this fiscal year are expected to be sold for scrap.

With one or two exceptions, all of the previous sales have been to U.S. citizens. Therefore, the vessels remain U.S.-flagged. MARAD does not have one pending foreign sale, to Argentina. In sum, with one or two exceptions, the vessels which MARAD has sold (95) are being returned to active U.S.-flag service.

Senator ADAMS. You have Title XI applications, pending?

Mr. GAUGHAN. That is correct. I presently have six applications for Title XI financing.

Senator ADAMS. And you have adequately been guaranteed authority?

Mr. GAUGHAN. Sir, as a loan guarantee it does not require money.

Senator ADAMS. Do you have authority for a loan guarantee?

Mr. GAUGHAN. Yes, I have the authority.

Senator ADAMS. How long will you have that?

Mr. GAUGHAN. I will have that authority as long as the Congress—

Senator BREAU. A long time.

Mr. GAUGHAN. A long time, to reiterate the Chairman.

Senator ADAMS. Because I heard your earlier comments, and I know the OMB operation very well, and if Title XI goes then you go out of that business, do you not?

Mr. GAUGHAN. Senator, the Title XI is authorized by an Act of Congress, and it cannot just be administratively terminated. It takes an affirmative act by the Congress to terminate the program.

Senator ADAMS. But you cannot utilize it.

Mr. GAUGHAN. In response to questions as to whether I would be controlled by the budget document or the law, I have always answered that I will be guided by the law, Senator.

Senator ADAMS. But we are dependent upon your good judgment as applications come in. Is that not correct?

Mr. GAUGHAN. That is correct, sir.

Senator ADAMS. Thank you. I have no further questions, Mr. Chairman.

Senator BREAU. In response to Senator Adams, is that telling this committee that you will continue to accept applications if they meet the rules and regulations as set out by the Congress?

Mr. GAUGHAN. We have never refused an application. It costs \$3,000 to apply, and there are any number of criteria that an applicant must meet.

Senator BREAU. But assume an applicant meets all the standards, I mean you still have to follow through with the program. That means granting the applications, if they meet all the qualifications and step through all the hoops and loops and dot the "i's" and cross the "t's" right?

Mr. GAUGHAN. That is correct, sir. And in 1986, we did in fact approve two Title XI applications.

Senator BREAU. One other final question. You had said with regard to projections in fiscal year 1987 you experienced some \$68 million in Title 11 defaults and projected that defaults could reach as high as \$600 million for the entire year.

Any update on that estimate? It sounds awfully high. I was just wondering whether that is consistent with what appears to be the case as we sit here this morning?

Mr. GAUGHAN. Senator, I have to tell you that it looks like we are right in target for \$600 million at this point. We had a number of defaults in this last month which added significantly to the number that was provided at the time. I am thumbing through my background material.

As an example, on the U.S. Lines it was approximately \$100 million that was paid out in defaults just recently.

Senator BREAU. Is there anything of that size that is looming out there this year in the oil business?

Mr. GAUGHAN. I think so, yes, sir.

Senator BREAU. So the \$600 million is your best estimate, from what the events look like?

Mr. GAUGHAN. We are halfway through the year, roughly, and we are at \$275 million or whatever. Yes, sir.

Senator BREAU. Mr. Gaughan, we thank you and your colleagues for being here and we look forward to working with you throughout the year. And let us stay in touch.

Thank you very much for your presentations and your responses to the questions.

Mr. GAUGHAN. Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF JOHN GAUGHAN, MARITIME ADMINISTRATOR, DEPARTMENT OF
TRANSPORTATION

Mr. Chairman and Members of the Subcommittee on Merchant Marine. My name is John Gaughan, and I am the Maritime Administrator of the Department of Transportation. It is a pleasure to appear this morning to present the views of the Administration with respect to those elements of your bill, S. 800, pertaining to the authorization request of the Maritime Administration for fiscal year 1988, and the proposed amendment to section 1304 of the Merchant Marine Act, 1936.

The Maritime Administration is responsible for and committed to the promotion of a strong U.S. merchant marine for carriage of U.S. foreign and domestic commerce and for national defense purposes. To carry out this responsibility we strive to ensure: (1) an active operating fleet of U.S. owned commercial vessels; (2) a supply of licensed officers to crew the operating and laid up fleet; (3) a fleet of cargo vessels which can be activated during national emergencies; and (4) support to other maritime related activities that further the national interests of the United States. S. 800 would authorize appropriations for these activities during fiscal year 1988.

During the past year there have been some significant and positive developments for the U.S. merchant marine. Some of our liner companies have entered into or are finalizing new construction commitments in order to revitalize their fleets. There has been a growing consensus in the liner industry that some reform of the ODS program is necessary. The new provisions of the so-called "cargo preference compromise" have been working, and the cost to the U.S. Government per ton of preference cargoes continues to drop for the affected programs. While the current state of the Title XI program reflects the poor economic environment of the shipping industry, the changes in the Bankruptcy Code passed by Congress last session have enabled us to drop unfair competition by defaulted companies and to accomplish quicker foreclosure sales. We have signed readiness agreements with a number of our major ports to provide for uninterrupted shipping in the event of a national emergency. MarAd's responsibility for the national defense reserve fleet has been exercised and validated by numerous successful breakouts of vessels in the fleet. American shipyards continued to respond effectively to the largest peacetime naval construction program in our Nation's history. Our American maritime personnel, whether on land or sea, continued to be dedicated to furthering America's maritime interests.

Of course, there have been problems and setbacks. The continuing worldwide depression in shipping has taken its toll. For example, as you know, United States Lines, Inc., one of our largest liner companies in the foreign trades, filed in November a petition for reorganization in bankruptcy. Nonetheless, we are making progress toward achieving an economically viable merchant fleet. The President's budget provides for the forward momentum to be maintained without adding to the national deficit crisis.

OPERATING-DIFFERENTIAL SUBSIDY

The first element of your bill is for Operating-differential subsidy liquidating cash in the amount of \$300 million.

Mr. Chairman, Operating-differential Subsidies (ODS) are the primary means of Federal financial support for the competitive operations of the U.S.-flag merchant fleet engaged in the foreign commerce of the United States. Authorization and appropriations are provided to liquidate contract authority under these long-term ODS contracts which the Administration continues to honor.

As I mentioned a minute ago, the international shipping market in which our subsidized ship operators must compete has become increasingly depressed. Thus, it is estimated that the cost to liquidate our contractual liability for subsidized ship operations will be \$247.1 million for 68.3 ship-years of operation under the ODS program in 1987 and about \$250 million for a comparable number of shipyears in FY 1988.

Since 1936, the Congress has authorized the Administration to enter into long-term ODS contracts. Appropriations have been provided annually to liquidate our obligations under these long-term ODS contracts. These costs are difficult to predict in annual increments due to changes in the cost of foreign competition and shifting economic factors. Therefore, the Administration is no longer requesting annual authorization and appropriations for ODS funds. Instead the President's Budget proposes that funds for ODS be authorized and appropriated on a "such sums as necessary" basis, beginning in 1988 and thereafter. The advantage of this approach is that it assures that subsidized operators will be paid their actual ODS expenses in a timely manner, and they will not be subject to annual holdbacks if they should earn more than that appropriated.

Mr. Chairman, in view of this, the Administration requests that our authorization authority, section 209(b) of the Merchant Marine Act, 1936, be amended by the addition of a proviso clause as follows: *Provided*, That such sums as may be necessary for fiscal year 1988 and thereafter are hereby authorized to be apportioned to make payments required under contracts made under section 603 of this Act." Let me add that this is not some design to circumvent congressional oversight—to the contrary it is merely a process which recognizes the uniqueness of the ODS contracts.

RESEARCH AND DEVELOPMENT

The second element of S. 800 is for research and development activities of the Maritime Administration in the amount of \$2 million.

Mr. Chairman, the President's Budget provides that fiscal year 1987 is the final year of funding for these activities. Emphasis is being placed on movement toward greater private sector initiatives in this area. Appropriations are not being requested for Research and Development in 1988, and therefore no request for authorization authority is being made.

OPERATIONS AND TRAINING

The third element of S. 800 is for Operations and Training in the amount of \$74,797,000. Operations and Training activities are divided in Maritime Education and Training Expenses, National Security Support Capabilities, and other Operations and Training Programs.

Maritime Education and Training provides for the operation of the U.S. Merchant Marine Academy, assistance to the six State Maritime Academies, additional training for eligible merchant marine personnel, labor studies and related activities.

Funding for the U.S. Merchant Marine Academy will cover cost increases to renovate the Academy's heating plant and related distribution systems and for the completion of the barracks renovation program. The Additional Training program provides for costs of administration of the Merchant Marine Academy and also provide for training in shipboard firefighting, and operations and maintenance of medium and slow speed marine main propulsion diesel engines. Both S. 800 and the President's Budget provide \$22,767,000 for the U.S. Merchant Marine Academy and \$1,231,000 for Additional Training.

S. 800 also provides \$10 million for financial and fuel assistance to the State Maritime Academies that is not contained in the President's Budget.

Mr. Chairman, the Administration has again proposed the discontinuance of Federal support for the State Maritime Academies. For 1988, the proposed State Maritime Academies program is limited to providing student incentive payments to cadets currently receiving such payments, the cost of which will be paid from unused 1986 and 1987 funds appropriated for this purpose. Due to the oversupply of merchant marine officers, the Administration cannot support continued direct payments and maintenance of training vessels. The State Maritime Academies can continue using the existing training vessels in 1988 and beyond provided that they pay all maintenance, repair and fuel costs, and that they will be responsible for financing the cost of replacement vessels.

Both S. 800 and the President's Budget provide \$13,812,000 for National Security Support Capabilities, including \$12,519,000 for the National Defense Reserve Fleet (NDRF), including the RRF portion of the NDRF, and \$1,293,000 for Emergency Planning Operations. These MARAD program responsibilities are directly supportive of this country's national security responsibilities. The NDRF Program provides for the preservation, maintenance and security of ships in the NDRF, which includes RRF ships, and for the administration of the ship Transfer and Ship Disposal programs. Under the Emergency Planning Operations program, the agency is tasked with development and maintenance of plans and procedures to ensure continuity and control of maritime operations, in time of national emergency. It also insures seamen and private shipping against loss in time of war.

The final element of the authorization request is for Other Operating Program Expenses. S. 800 provides \$26,987,000 for this purpose, \$2 million less than the President's Budget request of \$28,987,000. This program provides for the direction and administration of other agency programs. The Budget figure reflects an increase of \$2 million for maritime studies, \$1,500,000 for policy and program studies, \$2,133,000 for full year costs of the 1987 pay raise and added costs of the Federal Employees Retirement System, and costs of increased operating expenses. These increases are partially offset by the termination of the Research and Development program.

Mr. Chairman, this is where I could use the \$2 million your bill would authorize for Research and Development Activities. As I mentioned, the Maritime Administration does not require this authority for research activities, but we do need this \$2 million for a number of maritime studies. These studies will ensure that the agency has solid information in a number of areas of crucial interest. These areas include strategic military sealift, cargo handling, government preference shipping, maritime safety technology, waterway navigation development, NDRF/RRF fleet productivity management, maritime policy initiatives and emergency port planning requirements.

STUDENT INCENTIVE PAYMENT PROCEDURE

Turning now to section 3 of your bill, Mr. Chairman, that section would amend 1304 of the Merchant Marine Act, 1936, to adjust the method student incentive payments are made to students at the State Maritime Academies. As I mentioned, the Administration will continue to honor payment agreements now in force, but in view of the current oversupply of merchant marine officers cannot support incentives for additional students to those presently enrolled. Therefore, while we fully agree with Section 3, it would not be necessary under our budget proposal.

TITLE XI GUARANTEE PROGRAM

Finally, Mr. Chairman, the Administration requests that Title XI of the Merchant Marine Act, 1936, be amended to terminate the authority of the Secretary of Transportation to enter into new Title XI commitments as of September 30, 1987. This would implement the request in the President's Budget.

Pursuant to the Title XI Guarantee Program, the Secretary of Transportation guarantees obligations to finance the construction, reconstruction or reconditioning of U.S.-flag vessels. The Administration's request includes termination of similar authority vested in the Secretary of Commerce with respect to fishing vessels and fishery facilities. The Title XI Guarantee Program is one of several Federal credit programs that the Administration proposes to reduce or phase out in order to limit the Government's intervention in the Nation's lending market.

Mr. Chairman, that concludes my prepared statement. I will be pleased to answer any questions that you or the Members of the Subcommittee may have.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR DANFORTH AND THE ANSWERS

Question. On January 30, 1986, you and your staff met with representatives of inland waterway barge operators in response to their request for a dialogue on the severe economic depression in their industry and remedial measures. What have you done to resolve the problems and respond to suggestions made at that meeting more than a year ago?

Answer. The Agency's response to this problem has been focused in two major areas. The first effort is to aggressively remove from the market equipment operated by shipowners who have defaulted on that equipment's Title XI debt. This has the effect of removing supply from the marketplace and not allowing shipowners to operate equipment on a cost-free basis. There are currently no defaulted barges operating except those included under bankruptcy protection by Wisconsin Barge Lines. The second major focus of our efforts relates to the resale of equipment foreclosed upon by the Agency. In addition to trying to obtain the highest recovery possible through an aggressive marketing effort, we require the purchaser to scrap one barge for each barge purchased. This permanently removes one barge from the market for each barge resold, thereby reducing supply. Over time we expect this to have a significant positive impact on barge utilization and freight rates.

Question. The Bankruptcy Code was amended last year to provide the Secretary of Transportation with discretionary authority to foreclose on vessels secured by Title XI financing when the debtor has defaulted and the government has paid the obligation.

Please provide a summary of the status of MarAd's Title XI program including information on the total dollar amounts of obligations and defaults, a breakdown of those totals by type of "vessel," and an indication of the change, if any, in those figures during the past 12 months.

How many times has the Secretary sought foreclosure under the recently enacted foreclosure authority, and what have been the results in each case?

Answer.

(Dollars in millions)

Asset type	Title XI exposure as of Mar 31, 1987		Title XI defaults from Apr 14, 1986 to Apr 13, 1987	
	Number of vessels	Outstanding	Number of vessels	Amount
Bulk-Tankers	72	\$1,421.4	3	\$78.2
Bulk-Dry/OBO	22	386.3		
Bulk-LNG	10	761.1	3	154.7
Drill rigs	35	266.8	16	225.0
Drill service	42	79.1	33	81.6
Ocean tugs and barges	275	400.2	11	43.7
River tugs and barges	2,535	359.4	55	14.9
Cargos	75	574.2	27	194.7
Shipboard lighters	1,082	27.3	308	6.2
Miscellaneous	21	286.2	2	9.2
Totals	4,169	4,557.0	458	808.2

See attached sheet for total Title XI defaults since the inception of the program.

TITLE XI DEFAULTS SINCE INCEPTION THROUGH APRIL 9, 1987

(Dollars in millions)

Company	Number of vessels	Amount of defaults
Drill service	151	\$341.9
Drill rigs	39	513.2
LASH lighters	1,798	64.6
LNG's (including Phoenix)	6	355.8
Tankers	10	178.1
OBO/Bulk	6	14.8
River tugs and barges	650	137.0
Ocean tugs and barges	81	232.9
Cargoes	36	293.1
Miscellaneous	7	80.6
Totals	2,784	2,212.0

As of April 15, 1987, the Secretary has sought foreclosure under the recently enacted foreclosure authority (Section 362(b)(12)) twice.

In the first case, against Prudential Lines, Inc., the Bankruptcy Judge eventually ruled in our favor after enjoining us twice. Moreover, the Judge asserted that Section 362(b)(12) applied only to those instances where MARAD had commenced prepetition foreclosure proceedings. Since the judge's interpretation was merely dicta and especially since MARAD eventually prevailed in the case, MARAD had no grounds to appeal, although we are concerned about the limiting language imposed by the court. We believe that the court improperly construed Congressional intent in arriving at this overly narrow interpretation. When the proper case arises, however, MARAD will litigate the issues further to assert our position that (1) Section 362(b)(12) applies to all bankruptcy situations whether or not the Agency has commenced foreclosure proceedings prior to the filing of bankruptcy and (2) Congress did not intend to permit a Bankruptcy Court to enjoin MarAd from exercising its authority under section 362(b)(12).

In the second case, against ML Barge Pool Partners Series VII A, the Bankruptcy Judge granted the shipowner additional time beyond the statutory 90 day period with which to prepare a plan of reorganization by enjoining the agency. The Judge reasoned that the debtor should be given an opportunity to reorganize. The Agency believes that the Judge's decision if adopted elsewhere would nullify the entire purpose of section 362(b)(12), since almost all plans take more than 90 days to approve. MARAD (through the Department of Justice) is appealing the decision.

Question. You are, I am sure, familiar with the declaration of policy set forth in section 101 of the Merchant Marine Act, 1936.

(a) Have you determined, in quantitative terms, how many vessels, of what type, how many trained crew members, and how many shipyards are necessary to meet the goals set forth in section 101?

(b) If so, what are the quantitative requirements to meet the goals and how are we doing in meeting them?

(c) If we do not, for example, have enough U.S.-flag vessels, how many are needed and what is your strategy to get them?

(d) What programs do you propose to conduct to achieve each of the goals and at what cost?

Answer. Section 101 of the Merchant Marine Act of 1936, as amended, declares a national policy to encourage the development and the maintenance of a merchant marine capable of meeting our commercial needs and serving as a naval and military auxiliary in time of war or national emergency. The goals expressed in Section 101 are not specific and are subject to broad interpretation. There is no overall quantification of ships required to meet commercial trading needs. In recent years, the U.S. merchant fleet on a tonnage basis has actually carried only a small percentage of our imports and exports.

The Department of Defense is responsible for defining military requirements. Our assessment, in conjunction with DOD, indicates that even with the planned significant increase in surge shipping capacity under government control, the U.S. merchant fleet of the late 1980's will be marginally inadequate to meet wartime military dry cargo requirements. Shortfalls are projected also in tanker capacity.

The problem of shortage in sealift capacity is fully recognized by DOD. The shortfall must be made up either through additions to the government-owned fleet or to the commercial operating fleet. The Navy is increasing the size of the government's sealift assets to compensate for the loss of commercial ships due to economic pressures.

A recent Navy study estimates the seafaring manpower requirement to be 33,218 seamen in 1992. Based on Navy's pessimistic assumptions, the shortfall in active merchant seamen is projected to reach 8,125, including 1,295 stewards, by 1992. The Maritime Administration and the Navy are examining the feasibility of implementing a merchant marine reserve program, primarily to alleviate the unlicensed manning shortfall.

Shipyards capacity is adequate for mobilization, but studies indicate that several large repair facilities may have very high utilization rates. Mobilization tasks would be assigned to 57 private yards and 9 public yards. Ready Reserve Force ships, which would be activated on a top priority basis, are being outported to prevent breakout and towing delays. At present, shipyard workload and employment levels remain fairly steady.

The trends in the U.S. merchant marine and NATO reflagging are being monitored carefully for their potential impact on our maritime shipping capabilities. The U.S. maritime promotional program is under review. We are considering programs to strengthen the fleet and improve operational flexibility through reform of the operating-differential subsidy program. The Administration has previously proposed legislative action to allow foreign building, as well as reflagging with immediate eligibility to carry preference cargoes. In addition, trade route requirements for ODS operators have been streamlined. We are prepared to take fiscally responsible steps necessary to support the fleet, and to improve its military and commercial usefulness.

Senator BREAUX. We would like to welcome at this time Vice Commander Wallace T. Sansone, Military Sealift, Department of the Navy, Washington Navy Yard. Commander, if you would please take your place at the witness chair. If you have anybody that you would like up there with you, bring them on up.

Commander, we would be pleased to receive your testimony.

STATEMENT OF VICE COMMANDER WALLACE T. SANSONE, MILITARY SEALIFT, DEPARTMENT OF THE NAVY

Mr. SANSONE. Mr. Chairman, members of the committee:

I am Wallace Sansone, Vice Commander of the Navy's Military Sealift Command. I am pleased to be here, and I welcome this op-

portunity to appear before you today to represent the Navy's Military Sealift Command.

I have a prepared statement and with your permission I would like to insert it in the record at this time and provide a brief oral summation of that statement.

Senator BREAUX. That will be fine, without objection.

Mr. SANSONE. At the outset, let me say that time has not permitted the review and coordination of this statement for the record with all of the concerned agencies. Therefore, the views presented are my own and not necessarily those of the Administration.

With respect to the MarAd bill, the Navy of course supports the President's 1988 budget request for the programs that it contains. As the single manager for ocean transportation or sealift for the Department of Defense, the Military Sealift Command is charged with the movement of materiel and supplies to our armed forces and other U.S. government agencies in peace and war.

The U.S. maritime industry is indispensable to the Navy's strategic sealift, and as such in 1984 the Secretary of Navy and the CNO incorporated sealift as the third function of the Navy. Sealift, together with direct fleet support and special mission support, constitute the three major functions of the Military Sealift Command.

MSC is a worldwide Navy command employing 8,000 military and civilian employees and contract mariners. Our active fleet of 121 Navy-owned or chartered vessels is manned by civilian mariners.

Of particular concern to our sealift function, which depends heavily on a viable U.S. merchant marine, is the critical element in any contingency scenario. We must have a ready sealift capability to deploy and sustain military forces wherever and whenever needed, as rapidly and for as long as operational requirements dictate.

It is important to note that 95 percent of all dry cargo and 99 percent of all fuel needed to support our national strategy must be delivered by ship. There is simply no practical way to do it otherwise.

Today our merchant marine is in an accelerated rate of decline. At the end of World War Two, the United States had the strongest maritime fleet in the world, about 5,000 ships. Today we have less than 500 and about 20 percent are laid up.

A number of factors have played a role in this decline: the large oversupply of tonnage in practically all sectors of world shipping has depressed shipping rates to noncompensatory levels. This surplus of tonnage is replenished by current overcapacity in world shipbuilding and the expansion of state-owned maritime fleets.

Despite a high scrapping rate, heavy foreign shipbuilding subsidies, easy credit terms, and various discriminatory and unfair trade practices are prolonging the worst shipping recession in history.

There is also a serious decline in experienced maritime personnel. A joint study concluded by the Navy and the Department of Transportation last summer reflects a projected initial maritime personnel shortage of about 6,200 mariners, and a sustaining personnel shortfall of more than 8,100 in trained mariners to meet strategic sealift contingency requirements.

Add this to the recent trend to increase containerization of cargo and building of ever-larger ships, the pronounced shift toward ships that are less military useful is apparent in our merchant fleet.

To help offset these shortages, the Navy has embarked on certain strategic sealift programs. First, together with MarAd we have created the Ready Reserve Force, a fleet of inactive general cargo ships, large carriers, and roll-on, roll-off ships, now numbering 82 and programmed to grow to 122 by 1992.

We also have three squadrons of maritime prepositioning ships, each squadron of four or five ships carrying enough equipment and supplies to support a full marine amphibious brigade of 16,500 men for 30 days.

We have purchased and converted eight large container ships into fast sealift ships, providing the Navy with the capability of moving an entire mechanized division quickly to distant trouble spots.

We also have added to our fleet two hospital ships, two aviation support ships, and three auxiliary crane ships.

To address the contingency maritime manpower shortage, the Departments of Navy and Transportation are studying the establishment of a maritime reserve program.

The programs we have initiated are not designed to supplant the U.S. merchant marine. We must continue to address the broad problem of a viable maritime industry and national defense and to look for solutions that will answer these joint needs.

Our goal, the goal of our strategic sealift initiatives, is the reduction of unit deployment time and the removal of any impediment to providing required logistics to our war-fighting commanders at the earliest possible time. 40 of our 42 allies are overseas.

Furthermore, the world has grown smaller and potential foes far more capable of quick and deadly attack than in the past. We cannot afford the luxury of a catch-up period in the event of serious contingency.

The Navy recognizes that it is clearly in the national interest to support a strong merchant marine. Sealift is absolutely essential to the success of our military strategy, and this is an essential component of this nation's security. This fact, Mr. Chairman, I respectfully submit is the bottom line.

As I said, I am pleased to be here and I would be happy to answer any questions you may have.

Senator BREAUX. Thank you, Commander.

You heard the statements of Mr. Gaughan and MarAd's proposal to the Congress with regard to terminating assistance to the state academies. And the statement he made, I think, was that MarAd was making that recommendation due to the oversupply of merchant marine officers.

Can you give us a comment on that, in light of some of the studies that the committee is trying to weigh from GAO and from the Navy and from the Transportation Institute?

Mr. SANSONE. I think from maritime's perspective Mr. Gaughan is speaking about the peacetime merchant marine. In the Navy's perspective, we're concerned with that contingency in wartime. And as you pointed out, Mr. Chairman, the study clearly identified

in wartime mobilization a serious shortfall of manpower, and it will grow in the future.

Senator BREAUX. Do you have any recommendations to the committee with regard to how we can be helpful in addressing this potential dramatic shortfall? What would you have us do if you had the pencil and could write the law?

Mr. SANSONE. I think one of the most difficult things that the United States faces now is the worldwide overtonnaging situation, which has driven rates to noncompensatory levels. And this is the problem that faces all American operators in the foreign commerce.

And the Administration's policy is to work on those discriminatory practices, in the hope that the surplus tonnage wears down. And I think that that is going to be a very long process.

Senator BREAUX. Well, with regard to terminating support to the State academies, I guess we will get this answer from the academies, but I think that there is probably obviously a concern that, with less assistance, they are going to be able to turn out fewer officers who are qualified to fit into the role to which you are referring.

Is there any other way of replacing the shortfall that you can think of, other than going to the state and Federal merchant marine academies for those officers?

Mr. SANSONE. As I addressed in my initial summary, Mr. Chairman, the Navy and the Department of Transportation are working on various proposals for maritime reserve, those skilled mariners who no longer can find employment in the maritime industry that might be willing and available in time of national emergency.

Now, as we move out into the 1990's it will be more and more difficult to find those mariners who once had the skills or once had a maritime education to be available in time of emergency. And that is the concern that the Navy has. Today we probably could build a civilian reserve made up of surplus mariners that cannot find employment, but getting into the future years it would be more and more difficult without that supply of officers.

Senator BREAUX. Could we have some discussion from you, if we may, for the record with regard to the capabilities of sealift versus airlift capabilities in time of emergency? We have historical examples cited with our experience during Vietnam and trying to demonstrate the reliability of a sustained airlift operation into these difficult areas. How do you compare that airlift capability, in light of recent experiences, with the sealift capabilities?

Mr. SANSONE. As I said, we rely on sealift for 95 percent of our dry cargo requirements and 99 percent of our liquid cargo requirements. There is simply no other way to move these requirements except by sea. Airlift provides an essential ingredient to move the manpower to meet the prepositioned ships or the POMCUS in Europe.

Our national strategy is based on deterrence, and to deter aggression we must convince our adversaries that we can get there in time. What I am saying, Mr. Chairman, is that the two modes of transportation, airlift and sealift, must work together.

Senator BREAUX. Let me ask this question, because you talk in your testimony about the role that the U.S. merchant marine

would play in support of naval operations in time of a national emergency. I am particularly interested in the Navy's views about the type of vessels it would foresee as being the most important, the type of makeup of that fleet that you would be interested in seeing exist.

For example, do you believe that the small fuel carriers, such as those that are currently engaged in the Alaskan oil trade, are critical to the Navy's needs?

Mr. SANSONE. I think the types of vessels which the Navy requires in an emergency are clearly identified in those types which we now have in the Ready Reserve Force and are seeking to acquire in the Ready Reserve Force. These I would call commercial dinosaurs, those ships that are no longer competitive on the commercial trade routes, but however are militarily useful.

They possess these characteristics which give them self-sustaining capability, for example roll-on, roll-off ships, barge carrying vessels, breakbulk vessels, and handy-sized tankers. Those are the types of vessels which we are acquiring for the Ready Reserve Force.

Senator BREAU. Well, in light of that, do you have an opinion of what I would term the on-again, off-again rulemaking procedures by the Department of Transportation with regard to the ability of operators with CDS to pay back those payments for that Alaskan trade?

Mr. SANSONE. I have only a personal opinion, Mr. Chairman.

Senator BREAU. Could you share it with us?

Mr. SANSONE. My personal opinion is that it is shortsighted to allow a CDS vessel to compete with any unsubsidized vessel, whether it is in a domestic trade or in the foreign trade. I think that the subsidy makes an American vessel a foreigner that was designed for foreign competition, and allowing a vessel to compete in the domestic trade is unfair.

Senator BREAU. What would be your concern if that were allowed to take place, say in that particular type of trade area? Is there a fear that that would cause the failure of some of the smaller sized tankers? Is that the fear in that particular environment?

Mr. SANSONE. The Navy expressed this concern early on in the CDS payback debate to the Department of Transportation, that small militarily useful tankers would perhaps be displaced by large, more productive tankers coming into the Alaskan trade. And I think that has been proven to be the case.

Senator BREAU. Give us some quick discussion, if you will, on the age of the Ready Reserve Fleet, which has a substantial number of steamships, as opposed to more modern versions. How much of a concern is that? I mean, are we talking about putting into active service ships that you would probably find it difficult to repair and get into operating condition, because the state of the art has changed?

Mr. SANSONE. Well, let me respectfully point out, Mr. Chairman, that all of the ships in the Ready Reserve Fleet, of which we have 82 today, are in class with the Coast Guard and with the American Bureau of Shipping. So they are capable of getting under way today within a five, ten, or 15 day notice, depending on the category which we have laid the vessel in.

With respect to the steam propulsion units, inasmuch as the vessels are designed for surge shipping—that is, getting from A to B in the fastest possible time—we are not concerned with the efficiencies of fuel consumption for one or two trans-Atlantic voyages, for example, whereas a commercial operator might find the extra million dollars in fuel per year motor ship versus steam a distinct disadvantage and a competitive disadvantage, and probably an economic albatross as far as competing.

It is one of the reasons that we have been able to acquire these economic albatrosses for the reserve fleet. They are militarily useful, but albatrosses as far as commercial trade.

Senator BREAU. Is that a problem or a fear, not being able to get those repaired and refitted and to a point of being functional in a short period of time?

Mr. SANSONE. The studies that the Department of Defense has done in recent years have clearly indicated that there is a sufficient shipyard mobilization base available for breakout of the Ready Reserve Force. Now, as we look on into the future, everything is changing.

It is almost like trying to paint a moving train, with respect to having enough shipping, with respect to having enough shipbuilding and repair mobilization base. So I would say as we look out into the future, we will find it more and more difficult in finding people, ships, and shipbuilding mobilization base.

Senator BREAU. Do you have anything that would indicate where those ships would have to be sent to be made operable?

Mr. SANSONE. Yes, sir. As you know, the Navy's Ready Reserve Force is managed through the Maritime Administration on a reimbursement basis. They have identified shipyards and repair activities for the mobilization of these vessels.

Senator BREAU. Are any of those foreign yards?

Mr. SANSONE. Absolutely not.

It is not a difficult task to activate any of these ships, because, as I indicated earlier, they are all in class and it is a matter of just opening up certain spaces and decoupling the dehumidification systems, and then manning the ships.

Senator BREAU. That sounds very smooth.

Mr. SANSONE. Well, I share your concern. When we think in the future of getting under way perhaps more than 100 ships around the United States, we certainly face a much larger challenge than activating one or two in the tests that we perform daily.

Senator BREAU. What about the type of testing that you do to determine whether we are ready to go at a moment's notice, so to speak.

We have seen an article by Peter Brown, in which he is very critical, I think of the type of testing the Navy does to determine whether in fact the Ready Reserve Fleet is in fact ready. He said:

Apparent reluctance of the Navy to carry out a meaningful and realistic readiness status exercise for the Ready Reserve Fleet.

The element of surprise, so crucial to any evaluation of the RRF's actual ability to react rapidly in a crisis situation, is absent in the RRF exercises. RRF tests are supposed to be subjected periodically to no-notice testing, but during an October 8, 1985, exercise serious questions arose concerning the nature of the testing procedures. Not only did an advance notice of the test alert all parties involved, but a briefing was given.

The exercise was to take place on the 22d and the 23d of October, and enough lead time made it possible for at least one maritime union official to send letters to the rank and file stressing the importance of a good showing during the test.

Is this a valid criticism? If not, what is the response to that?

Mr. SANSONE. I have not read that article, Mr. Chairman. I would like to read the entire article. But I would say briefly here that there are no-notice tests and there are notice tests that Navy and MarAd work out. In these no-notice tests, they are designed, as Mr. Brown points out in his article, to test other things besides the response of people on a Saturday night.

The majority of tests are no-notice tests. That is, the Navy calls MarAd, identifies a ship, MarAd would call the agent and identify the same ship for activation, and within five days or whatever the readiness status of that ship would be, it would be expected, that that ship would be ready in all respects to go to sea.

I would like to provide some comments on that article, if I may.

Senator BREAU. Yes, I would like you to take a look at it, because if it is accurate, it really makes a joke of no-notice testing.

GAO also talks about the type of tests that we are giving and the concerns that they have. We would like you to take a look at the GAO study too, and just provide us some information on that. We want to be assured that the testing that we are doing is worthwhile.

GAO's report to the Assistant Secretary of the Navy cited several areas of concern with respect to the Ready Reserve Fleet. They talked about congestion at the fleet sites; the question of availability of shipyard resources and merchant marine crews; behind schedule on the maintenance, incomplete inventorying of spare parts; limited test activations; and the lack of systematic evaluation of the test results.

There is a whole slew of things that the GAO has said: Hey, we are concerned about this. And this is your area. Do you have any comments about that, what has been done to try and address those particular concerns?

Mr. SANSONE. Yes, sir. As I said, the RRF is managed by MarAd through Navy reimburseable funding. We work with the Department of Transportation and MarAd to correct many of those shortcomings that are identified by the GAO.

One of the things that the Navy has embarked upon, for example, is out porting of Ready Reserve Force ships. That is, that we are now putting ships—approximately half of the reserve force is in out ports at commercial labor, so that they would be easier to be activated, rather than every ship coming out of the James River or Sausan Bay or Beaumont, Texas, where the Reserve Fleets are located. So the out porting will help us.

MarAd is setting up a computer terminal system of inventory control for the spare parts and tracking those. And so many other things are being—

Senator BREAU. Well, there are several things there which GAO is telling us about the Ready Reserve Fleet. I really would like and I think it would be helpful for you to take a little bit of time and put together a response that would say: All right, here is what they say is wrong with congestion; here is what we are doing about it.

Here is what they say is wrong about spare parts inventories; here is what we are doing about it.

Or if you think it is not a problem at all, give us some information that says: Hey, they are wrong. And I think it would be helpful, because it would give us—I do not want to make you have to respond in such short time to something as important to that.

Mr. SANSONE. It would be a pleasure.

Senator BREAU. Let Mr. Al May and Mr. John Stocker come up I know their testimony is not the same, but we will just have you both come up, and we will proceed to question both of you separately.

Albert, good to see you again. Welcome.

Mr. MAY. Thank you, sir. It's a pleasure to appear before you for the first time as the Chairman of this Committee.

Senator BREAU. I changed jurisdictions. Thank you. Welcome.

Commander, I thank you. And you are excused. Thank you very much.

I see Mr. Gaughan is still in the audience. Perhaps he would be able to address, in cooperation with Commander Sansone that thing, because of the overlapping jurisdiction on the Ready Reserve Fleet.

Mr. GAUGHAN. Yes.

Senator BREAU. Thank you. With that, Commander, we will invite our next witness.

[The statement follows:]

STATEMENT OF WALLACE T. SANSONE, VICE COMMANDER, MILITARY SEALIFT COMMAND

Mr. Chairman, members of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science and Transportation, I thank you for the opportunity to participate in this hearing on the fiscal year 88 authorization for the appropriations for certain maritime programs of the Department of Transportation and the Federal Maritime Commission. These authorizations are contained in S. 800.

The Military Sealift Command, under the Secretary of the Navy, is the Executive Director for the Single Manager Operating Agency for Ocean Transportation (Sealift) within the Department of Defense. As such, MSC is charged with the movement of materiel and supplies for our Armed Forces and other Government agencies in peace and war. In both cases, the U.S. maritime industry is an absolutely indispensable adjunct to our national defense activities.

MSC is a worldwide Navy command which in peacetime employs some 8,000 military and civilian employees and contract mariners. Our active fleet of 121 Navy-owned or chartered ships is manned by civilian mariners and is engaged around the world on a daily basis in primarily three functions:

Direct Fleet Support—MSC's naval fleet auxiliary force of 36 ships provides fuel, ammo, food, supplies, spare parts, towing services and ocean surveillance to at-sea Navy combatants.

Special Mission Force—22 ocean survey, research, cable, and other ships which support a variety of worldwide Navy operations.

Strategic Sealift—63 ships, which are point-to-point carriers and are employed to satisfy the ocean transportation requirements of the Government.

It is strategic sealift that I would like to focus on today because it is this function that depends so heavily on a viable U.S. merchant marine and it is this function that is critical in any contingency scenario.

Today, we are well on our way to having in place the 600-ship Navy, and our Armed Forces are more alert, better trained and more ready to respond to contingencies than at any time in the recent past. This is as it must be, for as you well know, today's world is far more hostile and certainly more threatening than it has been in the past.

For this reason we must be ever prepared to meet all contingencies, to repel attacks on our freedom from any foe, in any part of the world, at any time.

Such capability requires a capacity to deploy and sustain military forces whenever and wherever needed—as rapidly and for as long as operational requirements dictate.

The success of that mission is ever dependent on the capacity and capability of the U.S. merchant marine to respond with the necessary men and ships. Thus, the partnership between MSC and the merchant marine remains a vital element to this Nation's capacity to respond to any emergency.

It is important to note that 95 percent of all dry cargo and 99 percent of all fuel needed to support our national strategy must be delivered by ship. There is simply no other practical way to do it. A global war situation calls for MSC direct operation of more than 700 ships and management of over 1,600 ships—95 percent commercially owned and all civilian manned.

Forty-five years ago, our merchant marine was in its ascendancy, the result of an ambitious merchant shipbuilding program triggered by World War II.

Today our merchant marine—ships and seafarers—is in an accelerated rate of decline. Forty-five years ago, the United States had the strongest maritime fleet in the world—about 5,000 ships. Today we have less than 500, and about 20 percent of those are laid up. For the first time in our history, our combatant fleet outnumbered our merchant marine fleet.

This alarming condition of our fleet projects to a military shortfall which could reach one-half million deadweight tons by 1990. In the area of tankers—a commodity vital to our military in any emergency—the Navy shortfall is in part addressed by the procurement of 20 ships.

Further, a joint study concluded by the Navy and Marad last August reflects a projected initial maritime personnel shortage of about 6,200 and a sustaining personnel shortfall of more than 8,100 trained mariners to meet strategic sealift contingency requirements.

A number of factors have played a role in this decline: an excess of tonnage worldwide, a reduction in world transportation demand, higher U.S. capitalization costs and operating costs, to mention a few.

Add to this, the trend in recent years to increased containerization of cargo and building of ever-larger ships. While these ships may be commercially successful, they have serious military drawbacks. The larger ships cannot gain access to some ports. Much of our military cargo simply cannot be containerized and shoreside container facilities may not be available during hostilities. The traditional "breakbulk" ships, which in the past were our military lifeblood, are being phased out of commercial operation as too expensive to operate. So, we are not only seeing a decline in the number of U.S.-flag merchant ships and crews—we are also having to deal with a pronounced shift toward ships that are less militarily useful.

It is obvious the Navy could not just stand idly by and watch this deterioration of vital national defense assets. As a result we undertook a number of new programs to enhance the strategic sealift assets under our direct control and to improve the military usefulness of today's remaining merchant ships.

The principal program that we have undertaken to meet sealift shortfalls is the Ready Reserve Force. This fleet of inactive ships is principally made up of older general cargo, barge carriers and RO/ROS no longer able to economically compete in commercial trade. It currently consists of 82 ships, programmed to grow to 122 by 1992.

Additionally we have deployed three squadrons of maritime pre-positioning ships to Diego Garcia, the Eastern Atlantic and the Guam-Tinian area. Each squadron of four or five ships carries enough equipment and supplies to support a full marine amphibious brigade of 16,500 men for 30 days.

We also brought and converted eight large container ships into what are called fast sealift ships. They are big—at 946 feet almost as long as an aircraft carrier—and can travel in excess of 30 knots. They allow us to move an entire mechanized division quickly to distant trouble spots. These ships are maintained in reduced operating status, capable of being brought on berth in 4 days.

We also have added two hospital ships, two aviation support ships and three auxiliary crane ships to our sealift fleet. The latter, programmed to grow to a fleet of 12, are designed to discharge nonself sustaining container ships that make up most of the U.S. flag active fleet.

To address the projected contingency manpower shortage, the Departments of Navy and Transportation are studying the establishment of a Maritime Reserve Program made up of former experienced mariners.

I want the distinguished members of this subcommittee to keep in mind that these programs, designed to help offset the shortfall in available merchant ships and manpower, are not designed as a final solution. Far from that. We need to ad-

dress the broad problem of a viable merchant marine industry and national defense to meet our wartime shipping requirements. Toward that end Congress has directed the establishment of a Commission on Merchant Marine and Defense, which has begun to look for solutions that will answer joint commercial and defense needs.

To sustain our forward military strategy and our strategic mobility in time of war, the Navy's strategic sealift programs will have pumped billions of dollars into the maritime economy by the end of this decade. Not only do these programs contribute substantially to the Nation's defense, but the maritime industry and national economy as a whole. The Navy recognizes that it is clearly in the national interest to support a strong merchant marine.

The successful deployment and support of forces in executing military strategy in both war and peace depend heavily on strategic sealift. Increasing emphasis on mobility, force readiness and response, coupled with the precipitous decline of the U.S. flag merchant fleet, has brought all aspects of strategic sealift into sharp focus.

Recognizing the critical dimensions of this role, the Navy, in March 1984, formalized strategic sealift as one of its three distinct functions. The goal of defense strategic sealift initiatives is the reduction of unit deployment time and the removal of any impediment to providing required logistics to unified commands at the earliest possible time.

Forty of our 42 allies are overseas. Furthermore, the world has grown smaller and potential foes are far more capable of quick and deadly attack than in the past. We cannot afford the luxury of thinking we will have the opportunity of a catch-up period in the event of a serious contingency.

Thus, sealift is absolutely essential to the success of our military strategy and an absolutely critical component of this Nation's security.

This fact, I respectfully submit to the distinguished members of this subcommittee, is the bottom line.

STATEMENT OF ALBERT E. MAY, EXECUTIVE VICE PRESIDENT, COUNCIL OF AMERICAN-FLAG SHIP OPERATORS

Mr. MAY. Sir, you are aware of the problems the maritime industry has faced, and the fact that nothing has been done to resolve them in recent years.

It therefore should be good news to report that during the past six months, our principal military leaders have emphasized the fact that for the first time since World War II—

Senator BREAUX. See if you can get that mike a little bit closer.

Mr. MAY. Is this better?

Senator BREAUX. Yes, that's better.

Mr. MAY. During the past six months, our leading military leaders, including Secretary of Defense Weinberger, the present and just past chiefs of naval operations, the Chairman of the Joint Chiefs of Staff and others have spoken on the fact that for the first time since World War II, our total maritime resources, both government and private, are inadequate both in ships and men to meet certain approved contingency requirements.

This was perhaps best stated by Secretary Lehman only three months ago when, after praising the buildup of our military forces by the Reagan Administration, he went on to say, and I quote: that the condition of the U.S. merchant marine is the greatest single glaring deficiency in the United States' ability to wage war overseas.

These statements were heard in the White House because the President, in effect, repeated many of them in his January, 1987 National Security Strategy of the United States statement.

We would expect, at least I would expect, after hearing these statements from people at that level, that you would have before you today a dramatic and an urgent new maritime program.

Instead, we have the same old do-nothing proposals that we've seen for the past six years.

I've asked myself, how can this be? How can an Administration that spends almost \$300 million for a single airplane refuse to put up one-sixth of that amount a year to fix the maritime problem?

I've concluded that the answer has to be that the most senior officials of DOT are preoccupied with domestic transportation, and feel that this is really an issue for the Department of Defense or the White House; that while the Department of Defense officials are concerned and speak out, as they tell you privately, they're not going to do anything because they're afraid that the cost of doing something will be taken out of their budgets.

OMB doesn't have a responsibility. Their job is to cut the budget, not propose new programs.

The White House does nothing because, as far as I'm aware, there's no one under the president who is responsible for maritime policy in the White House today. And obviously no one has told the President that his expressed concerns are not being addressed.

Thus I come to the principal focus of my statement, which is, that the only solution is for the Congress to act, and I think we can assume from your opening statement, that this committee is going to act on these issues.

With regard to the very limited MarAd proposals for the year, we have only two brief comments.

First, we fully support the committee's recommendation of \$300 million for ODS. We believe that there should be a specific line item and dollar amount, in the budget.

We also believe that adding the extra \$50 million for contingencies, and hopefully, to implement a new promotional program, is very worthwhile.

We believe in maintaining the line item for R&D, even at the modest level of \$2 million. My statement discusses a project which is now in the final testing stage A7 MarAd, which could probably only have been done by the Federal Government in cooperation with industry.

It's an adaptation of NASA technology, and very valuable.

I have only two other points, Mr. Chairman. These are also addressed in my written statement.

The first, is with regard to service contracts which were first authorized by the Shipping Act of 1984. It was our understanding that these were to be mutual obligations, putting burdens and benefits on both the shipper and the carrier.

For a number of reasons, this original intent has been distorted, and in many, indeed most cases, there's no real obligation on the shipper, and this has worked to the detriment of the carriers.

We urge that the Committee ask the FMC, and I believe this was implicit in the questions you asked earlier, that they address this issue, not as part of a hodgepodge of other collateral issues, but in a specific proceeding designed to interpret just what the Congress intended re service contracts in the 1984 Act.

Incidentally, I don't know the answer any more than did the Chairman of the FMC as to what percentage of cargo moves under service contracts. But I have read estimates that in the Japan trade, which is roughly 25 percent of the entire liner trade of the

United States, that as much as 80 percent of the trade is now covered by service contracts.

So it's a very, serious issue.

The second and last item we would like to suggest to the committee is with regard to an amendment making mandatory independent action applicable to freight forwarders which was inserted in the tax act late last year.

This amendment was never introduced. It was never heard. It was never discussed. Indeed, it never saw the light of day or appeared in any document until the bill was reported from conference.

We believe that it was handled in this highly irregular manner for the simple reason that if it had been exposed to the light of day, it would have been rejected, as was a similar proposal by the Congress in 1984.

We request the committee to ask the Senate Finance Committee, which we believe is considering a new tax corrections act, to include a reversal of this last-minute action of last year, as they proposed to do in the tax correction act that was not acted on in the 99th Congress.

If after that's done there is a problem that needs to be addressed, let's introduce a bill; let's have hearings; and let's do it properly.

Mr. Chairman, I have nothing further at this time, but I would be happy to try to answer any questions you may have.

Senator BREAUX. Thank you. Let's go ahead to Mr. Stocker's testimony.

[The statement follows:]

STATEMENT OF ALBERT E. MAY, EXECUTIVE VICE PRESIDENT, COUNCIL OF AMERICAN-FLAG SHIP OPERATORS

During the past year it has become increasingly clear that for the first time since World War II, the United States does not have sufficient merchant type ships or trained seamen to support some of our most important defense contingency plans. Equally ominous is the fact that the fleets of our NATO allies are also disappearing, in some cases at a rate as fast as our own.

The Chairman and members of this Committee have eloquently addressed this problem and there is no need to repeat the grim facts.

The good news is that our most senior military officials who are responsible for insuring that this nation has adequate commercial sealift to support overseas military operations have now spoken out clearly and emphatically about the problem. The depth of their concern is evident from a few brief quotes:

"In 1986 Vice Admiral T.J. Hughes, Jr., USN, Deputy Chief of Naval Operations for Logistics, advised the Congress and his military superiors, that, "a strong U.S. flag merchant marine is absolutely essential to our forward collective defense. . . . Today and in the foreseeable future there is no substitute for U.S. flag commercial ships in the fulfillment of our strategic sealift objectives. . . . Current military planning depends on the U.S. merchant marine to provide the major portion of the U.S. flag sealift."

"In 1986 Admiral William J. Crowe, Jr., Chairman of the Joint Chiefs of Staff, stated "The decline in size and capacity of the U.S. merchant marine has been a major concern of DOD national security planners. . . . In this era of constrained resources, if there were no U.S. flag merchant marine, it would have to be replaced by a government-owned and operated sealift fleet—at considerable additional expense to acquire and operate."

"In 1984 Secretary of Defense Weinberger wrote to Secretary of Transportation Dole stating "The decline in U.S. flag commercial shipping capable of carrying military unit equipment is of particular concern to DOD. . . . Even assuming that the entire U.S. merchant marine is made available to support military requirements, we may not be able to meet DOD's limited policy objectives". Since some of the already inadequate maritime resources must be used during an emergency to support essen-

tial economic and civilian requirements he asked Secretary Dole to join in a study of the problem.

"In 1986 Secretary Weinberger again wrote to Secretary Dole expressing further concern over the decline of the merchant marine and pointing out that one of the results is that by the end of this decade, there will not be enough trained seamen in the manpower pool to man government-owned merchant ships that DOD is stockpiling for defense purposes. In response to SecDef, Sec. Dole agreed that her Department would cooperate in a study with the Navy regarding the feasibility and cost of creation of a National Maritime Reserve Force. That report was originally due to be completed February 15th, 1987.

"On December 3rd 1986 Secretary of the Navy Lehman, speaking at the swearing-in of the Commissioners of the Commission on Merchant Marine and Defense, eloquently described the success of the Reagan Administration in rebuilding, and revitalizing all of our military forces. He then went on to state with great emphasis, that the condition of the U.S. merchant marine is "the greatest glaring deficiency" in the United States ability to wage war overseas.

"These voices were heard in the White House and President Reagan, in his January 1987 statement on the "National Security Strategy of the United States" reiterated our forward defense strategy and emphasized the fact that "... Sealift will inevitably carry the bulk of our reinforcement and resupply material, as it has in past crises." He added that "... We face severe difficulties in moving large forces quickly enough to deter Soviet aggression, deploying forces to two or more theaters simultaneously, or moving material effectively in to less developed regions. ... In particular, the continuing decline of the U.S. merchant marine and U.S. flag commercial shipping assets is a matter of concern. This problem is compounded by the decline of the U.S. flag fleet, which results in a reduction of the seagoing workforce to man all our U.S. flag vessels—as well as ships of the Ready Reserve Force, the National Defense Reserve Fleet and any Effective U.S. Controlled ships which might need crewing. The lack of merchant mariners in the near term could impede our ability adequately to project and sustain forces by strategic sealift."

The President concluded by stating that "We must never forget that freedom is never really free; it is the most costly thing in the world. I ask that we stand together in my final two years as my President to ensure that we continue setting in place a strategy which will carry us securely into the twenty-first century."

Given these statements one would expect that aggressive new programs would quickly be proposed by the Administration to correct the problems it has so eloquently identified.

These expectations were dashed by the Administration's FY 1988 appropriations request for the Maritime Administration. For the seventh year in a row nothing new is offered except increased chipping away at existing policies.

Why is this true. Certainly the Administration officials involved are genuinely dedicated to President Reagan's goal of rebuilding the military security of the United States. Several reasons suggest themselves:

"Most senior officials of the Department of Transportation are preoccupied with domestic transportation problems, and given the perceived complexity of the maritime problem, have simply not seriously addressed the issue. Perhaps they also think that it is a problem for the Department of Defense or the White House to solve.

"Department of Defense officials have not proposed solutions—other than the very costly build up of a government-owned and perhaps soon to be government 'Reserve Force' manned fleet—because they fear that attempts would be made to take the cost of such programs out of the military budget.

"The Office of Management and Budget has not brought the problem to the attention of the President simply because given existing fiscal problems, officials of that Agency are determined not to support anything that could result in any additional expenditures.

"At the White House, the failure to address the President's stated concerns almost certainly results from the fact that no one is actively and directly responsible for maritime affairs, and thus the President is not aware that nothing is being done to achieve his objectives."

Since all efforts by the Congress and the maritime industry to get the Administration to act have failed, the only solution is for the Congress itself to take the lead in shaping an effective new maritime promotional program. Such a program must be fair and equitable to all U.S. flag operators and ensure them an ability to operate U.S. flag citizen manned ships at a cost parity with their foreign competitors.

S. 800 is a good first step on the long road we have to travel. Specifically:

Operating Differential Subsidy.—We believe that the original request of \$250.3 million would probably be adequate to meet ODS payments required by existing contracts during FY 1988. We understand that the Committee has proposed increasing ODS funds to \$300 million so as to make money available to fund a new promotional program if one is enacted.

The inadequacy of the Administration's request is clear if you look at Exhibit 1 attached to this statement which shows Operating-Differential Subsidy Net Accruals from 1954 through 1988. In constant dollars the current request is only \$56.1 million which is in stark contrast with the \$201.9 million spent in 1964. In this regard it is important to remember that in 1964 the U.S. fleet and the fleets of our NATO allies were all more than adequate to meet their defense obligations.

Research and Development.—The President's budget proposed elimination of the R & D line item from the MARAD budget. We commend the Committee's action in including \$2 million for R & D so that some essential programs can be continued. The majority of U.S. flag liner operators have highly sophisticated services which compete for the more valuable cargoes requiring speedy and often specialized handling. They have introduced the majority of innovations in liner service since World War II. To maintain our competitive edge it is important that we continue to be first with new innovations in technology and service.

There are certain ideas that the government is uniquely positioned to develop and test and others which while worthwhile for the entire industry, cannot be justified by a single company. A good example of the beneficial effect of the government's R & D role is current work being done on laminar flow/boundary air pipeline transfer technology. This revolutionary pneumatic conveying system may be adopted to load and unload bulk grain commodities at substantially reduced cost. Indeed, initial tests indicate that this relatively inexpensive equipment could reduce delivery costs of U.S. grain by as much as \$10 a ton. This would obviously help increase agricultural exports as well as benefit merchant shipping.

The original technology developed by NASA is straight out of Buck Rogers, for it utilizes both low and medium high velocity air pressures within a single pipe, operated by a patented pump—the sale of these pumps to shipowners around the world also benefit the U.S. balance of trade. The key difference between this system and conventional pneumatic systems is the layer of air that surrounds the bulk grain within the pipe from inlet to outlet and isolates it from the pipeline, thus drastically reducing friction. Current engineering estimates are that one pump using a 10" pipe can move approximately 260 metric tons of grain per hour approximately 3,300 feet. This is at least five times as fast and over ten times the distance of current pneumatic systems. This and other commercial applications for the NASA technology is being jointly developed by the Department of Commerce, the Maritime Administration and other government agencies.

If MarAd had not had the funds and thus the ability to participate in this project it is likely, indeed probable, that the highly beneficial application of this government developed technology to the maritime industry would not have been recognized for many years.

We urge you to include \$2 million for R&D activities.

Operations and Training Activities.—CASO has no comment since we have no particular expertise in this area.

Since this is the first opportunity we have had to appear before Senator Breaux as the Chairman of this Subcommittee, I would like to take the opportunity to briefly discuss two subjects which we believe warrant the Committee's attention.

First, regulations governing service contracts under the Shipping Act of 1984.

The liner industry has also been adversely affected by the absence of rules governing carrier/shipper service contracts. There is no question that overall trade conditions (overtonnaging) are the main factors contributing to the inadequate revenue levels carriers have obtained under service contracts. However, the situation has been exacerbated by the use of a variety of contract clauses which turn service contracts into one sided (on the side of the shipper) instruments which do not include the mutual obligations which carriers believe were intended by the Congress in enacting the service contract provisions of the Shipping Act of 1984.

Most favored shipper clauses, clauses allowing shippers to breach contracts and jump to a better deal upon payment of *de minimis* or no damages, and so-called "commercial force majeure clauses" which allow shippers to terminate their obligations upon their own discretion, are among the practices inconsistent with the Act which have evolved.

Terminating these practices would in no way guarantee carriers reasonable returns, it would merely ensure that service contracts have the certainty for both carriers and shippers intended by Congress. While three years have passed since enact-

ment of the Shipping Act, the FMC has made no decisions in these areas, except through non-decision. The FMC now has before it two dockets addressing service contract issues; one is a proposed rulemaking on which comments were received last May; the other is a petition to begin a rulemaking which, though filed this January, covers issues on which the FMC requested general comment in February 1986. We believe that it would be appropriate for your Subcommittee to indicate that it expects more expeditious movement by the agency to ensure balanced implementation of the Shipping Act of 1984.

Second, Section 1888(8)(i) of the Tax Reform Act of 1986 entitled "Compensation for Ocean Freight Forwarders".

This section is an amendment to the Tariff Act of 1930, but the practical purpose and effect is to amend the Shipping Act of 1984 (46 USC 1701, et seq). This section was never heard discussed or debated during the months of work on the Tax Act, and indeed was not in any version of the Act prior to its emergence from conference. Leaders of the Senate and House Merchant Marine Committees registered opposition to this provision because of the irregular manner in which it was adopted, because it was a matter solely within their jurisdiction and because Congress had considered provisions similar to section 1888 and rejected them during consideration of the Shipping Act of 1984. Since there was an agreement that the Tax Act would not be subject to points of order, it was not possible to strike the amendment on the Senate floor. The Technical Tax Corrections bill which was to accompany the Tax Act would have repealed section 1888 but that bill was not enacted during the 99th Congress.

The amendment was undoubtedly handled in such an irregular manner because it almost certainly would have again been rejected by the Congress if formally proposed as legislation subject to introduction, hearing and thorough examination.

In essence it provides that conferences must make mandatory independent action available to their members with respect to freight forwarder compensation paid to ocean freight forwarders who are also licensed customs brokers, in the event that the Conference tariff does not provide for compensation of at least one and one-quarter percent of all tariff charges to forwarders who are also licensed customs brokers. We do not believe it is appropriate to discuss the merits of the issue at length at this time unless the Committee wishes to do so. However, on behalf of our members, we urge that you contact the Chairman and members of the Senate Committee on Finance to urge them to again include a repeal of this midnight amendment in the new version of the Technical Tax Corrections bill which we understand they are working on.

Mr. Chairman and members we appreciate the opportunity to present the views of the Council of American-Flag Ship Operators and would be happy to attempt to answer any questions you may have.

STATEMENT OF JOHN J. STOCKER, PRESIDENT, SHIPBUILDERS COUNCIL OF AMERICA

Mr. STOCKER. Thank you, Mr. Chairman.

My name is John J. Stocker, and I am president of the Shipbuilders Council of America.

We thank you for the opportunity to appear before this subcommittee this morning. My comments will be limited to those provisions of the measure that implement the Administration's proposed budget to fund the various maritime promotional programs authorized by the Merchant Marine Act of 1936. That proposed budget contains no surprises this year. In fact, the Administration's proposal represents a continuation of the failed promotional policies of the past six years.

The maritime promotional policies of this Administration have resulted in numerous bankruptcies for private U.S. flag operators, for example, Prudential Lines and United States Lines in 1986; the lowest level of merchant ship construction and private domestic yards in years, with a corresponding decline in the number of facilities and skilled workers; and a serious falloff in the number of billets for American seafarers.

The grim statistics for shipyards are: one, only four merchant ships are currently under construction in U.S. shipyards, and Mr. Chairman, all four of those ships will deliver in 1987. With the delivery of those ships, there will not be a single commercial ship under construction in the United States.

Two, employment is down from 112,000 to 85,000 production workers since 1982, and this represents a decline of 24 percent in terms of employment. And our projections are that through the remainder of the decade, the decline will worsen.

Three, 36 shipbuilding facilities have closed their gates during the same period, from a base of 110 shipyards identified in 1982, and this represents a decline of about one-third.

As to those promotional programs of interest to shipbuilding, the Administration seeks no funding for the construction differential subsidy.

This lack of funding was anticipated, and tracks the pattern that dates back to 1981.

Also, the Administration desires to wind up the Maritime Administration's research and development program. The budget documents, furthermore, indicate that the Administration wants to eliminate the Federal ship mortgage guarantee program.

This action in Title XI was anticipated since the Administration vetoed H.R. 4175, the Maritime Authorization Act of 1987, for failing to repeal the Title XI program.

The Shipbuilders Council notes, with appreciation, that S. 800 does not contain language which would eliminate that program.

Zero-budgeting the CDS program, failing to adequately fund the R&D program, and attempting to repeal the Title XI program will not lead to a revitalization of the commercial shipbuilding segment of the American maritime industry.

Indeed, these actions will, in our judgment, lead to a further decline in the shipyard mobilization base essential for national security. The subcommittee knows that this base is already at a dangerously low level. The Shipbuilders Council will be among the first to admit that the CDS and Title XI programs were far from perfect. There were problems with the basic law as well as how MarAd implemented the statute. Illustrative of some of these shortcomings are the high level of defaults in the Title XI program over the past three years. It should be pointed out, however, that the majority of those defaults were energy related. That sector of our economy has been severely affected by the decline in world oil prices and resulting fall-off in offshore oil development in this country.

The failure to adequately fund the R&D effort is, in a word, incomprehensible. This program has been a cost-sharing partnership between industry and the government. The work product of that partnership has led to dramatic improvements in productivity in U.S. shipyards.

To end this program in this era of intense international competition cannot be rationally defended in our view.

MarAd sponsored studies on the various shipbuilding technologies and management techniques of the United States, Europe and Japan have led to improvement in areas such as welding research and quality control.

The national shipbuilding research program funded jointly by MarAd, NAVSEA and U.S. shipyards was a direct result of this R&D effort.

An independent study by the Rand Corporation, which was funded by the National Science Foundation, singled out the MarAd shipbuilding R&D program as an example where research funds were being spent effectively.

This year, only a maximum of \$2 million is available for MarAd R&D. Out of that total, only \$225,000 is targeted for shipbuilding research.

Previously, R&D funding in the 1970's was as high as \$22 million, with the shipbuilding portion reaching \$4 million.

And I might add, Mr. Chairman, that we believe that the reason we've seen substantial cost savings in Navy contract awards over the past six years, representing a total of \$6.8 billion, is a direct result of this R&D effort.

S. 800 does not attempt to repeal the Title XI program. This program remains as probably the most important aid to assist operators to finance the construction in U.S. yards of complex merchant ships.

It also represents the last promotional program that could benefit U.S. shipyards.

MarAd has ample unused guarantee authority at its disposal to carry out the program. An application by the American Shipbuilding Company for Title XI financing is pending with the agency to assist in the construction of two 800-passenger ships for the Hawaiian inter-island cruise trade.

This \$216 million project represents the first viable endeavor to build in the United States modern, efficient passenger ships in three decades.

Approval of this application would greatly augment the economics of the project. The project represents 2,000 shipyard jobs, and will provide hundreds of seagoing billets over the life of the vessels.

The Shipbuilders Council urges the subcommittee to authorize funding at an adequate level for the MARAD R&D program, and to retain the Title XI program, and not to accede to the Administration's plan to eliminate either one of these programs.

That concludes my statement, Mr. Chairman and I will be happy to answer any questions you might have.

Senator BREAU. Thank you, Mr. Stocker, very much for your testimony.

Mr. May, give some discussion, a little bit more detail, about your concern about the tax provisions in last year's tax bill. Tell us how it is bad from your perspective. I want to know, why should it be changed.

Mr. MAY. Thank you, sir.

I suppose the most fundamental reason that it should be changed is that a similar proposal was rejected during consideration of the Shipping Act in 1984. We believe that that's why this particular amendment was handled the way it was.

Incidentally, it's not in any way a part of the tax code. It should not have gone to Ways and Means and Finance; it should have come to this committee for hearing, as it did in 1984, when it was rejected.

Basically, the fundamental problem with it is, that it tends to weaken the entire structure and fabric of the conference system. It authorizes any conference member at any time to take independent action to change the rules the conference has with regard to compensation of freight forwarders.

Not all freight forwarders support this. The provision applies only to a limited segment of the forwarders, the larger ones, I believe. I'm told that many of the other forwarders, who are not customs house brokers, do not support it.

It weakens the conference in times when cargo is in short supply by authorizing a forwarder to induce a carrier to change the rules of the conference, through independent action, in return for badly needed cargo.

That destroys the conference system, which is the framework which the Congress set up in the 1984 Act.

Senator BREAU. So based on that, your recommendation is just that somehow we remove the provision?

Mr. MAY. Yes, that we go back to the status quo. Then if the forwarders have a legitimate problem, let them put a bill in, and let it be heard and considered.

I might add that when this came up at the last minute in the last Congress we could not try to get it deleted on the floor because there was a rule against amendments to the tax bill.

It was then proposed by the Senate leadership involved that it be reversed in the tax corrections package, which of course was never acted upon before the 99th Congress adjourned.

Senator BREAU. Mr. May, give me some discussion then on the subject that I brought up with the FMC with regard to the so-called loophole on cargo originating or destined for the U.S. that moves through Canadian ports?

Mr. MAY. Mr. Chairman, that's a long festering problem. We have not, as an organization, taken a position on it. We don't like to see the diversion, but as was suggested by the general counsel of the FMC, it is something that works both ways.

On the West Coast, a great deal of cargo is diverted to the United States. And this benefits our ports, our carriers and our labor unions.

Senator BREAU. Did you participate with the FMC in trying to update the antiquated system they have on the tariff filings?

Mr. MAY. No, sir, we do not have a section 15 agreement. And we leave those matters, after they leave the Congress, to the conferences and the individual carriers.

Senator BREAU. Mr. Stoker, your testimony is clear. You just don't see anything, obviously, in this proposal that has any light at the end of the tunnel with regard to the shipbuilding industry, do you?

Mr. STOCKER. No, sir, we do not.

Senator BREAU. I would take it that MarAd would argue that if we do away with Title XI there will be adequate financing with regard to the private sector, and that's where the money will come from.

What is your response to that?

Mr. STOCKER. We reject that argument, largely because we found that trying to go out to the private capital markets, even in at-

tempting to create working capital funds for Navy contracts, is very difficult.

Senator BREAUX. What is the latest on the proposed construction, to your knowledge, of the two large passenger ships by the American Ship Building Company.

Mr. STOCKER. Yes, sir. The last word we had was that the Title XI application was in the Maritime Administration, and is currently undergoing review.

Senator BREAUX. I think we got the response that those applications, or any applications which meet MarAd's criteria, will be granted.

What about the two-for-one proposal with regard to foreign construction, build two foreign, one domestic? What is the status of that from the Shipbuilders Council's perspective?

Mr. STOCKER. Mr. Chairman, we have not gone back and reviewed that proposal. We would have to take it back again and talk to our board of directors and develop a position on that.

But we can do that, if you see that as a potential program.

Senator BREAUX. It's not a subject that we need to solve for the purposes of these hearings; but it's going to be one that we're going to be looking at for the purposes of an overall plan to try to come up with some suggestions to help our shipbuilding industry.

I guess it's your opinion that there are going to be very few, if any, lending institutions that are going to be able to participate in any shipbuilding financing in the United States in the absence of Title XI?

Mr. STOCKER. We would agree with that. In fact, one of the things we're interested in finding out more about is the extent to which foreign governments step in and aid in the financing of various foreign shipbuilding projects, which we believe is extensive worldwide.

Senator BREAUX. Didn't DOT enter into some discussions in Japan with regard to the extent of help that country gives shipbuilders?

Mr. STOCKER. This last trip that Deputy-Secretary Burnley took, and Mr. Gaughan accompanied him, they did not address shipbuilding issues during their formal discussions with the foreign governments.

Senator BREAUX. Were they asked to by your side?

Mr. STOCKER. We asked them after they returned if they had raised shipbuilding subsidy or financing support in any of their discussions, and the answer came back that they did not.

Senator BREAUX. We get your message with regard to the Administration's proposal, and I thank you.

Again, we're going to be asking you to participate with us during the year, and during this Congress, to try to come up with some positive things that can be done. We are committed to exploring the possibilities aggressively.

So we thank you for your appearance. Al, good to see you. Thank you, Mr. Stocker.

Mr. STOCKER. We will be glad to work with you, Mr. Chairman. In fact, we have a number of proposals we would like to discuss with you, so thank you.

Senator BREAUX. Look forward to receiving them.

This panel will be excused, and our final panel this morning will be representatives of the state schools. We would like to welcome at this time Rear Adm. Floyd Miller, President of the State University of the New York Maritime Academy; Rear Adm. James McNulty, Superintendent of the Great Lakes Maritime Academy; and Rear Adm. John Aylmer, President of the Massachusetts Maritime Academy.

Gentlemen, we welcome you. Good to see you, and we look forward to receiving your testimony.

And we have others, too. Just for the record, let me also welcome Rear Adm. Kenneth Curtis, President of the Maine Maritime Academy; Rear Admiral John Ekelund, President of the California Maritime Academy; and Rear Adm. William Clayton, Superintendent of the Texas Maritime Academy.

STATEMENTS OF REAR ADM. FLOYD H. MILLER USN (RETIRED), PRESIDENT, STATE UNIVERSITY OF NEW YORK MARITIME ACADEMY, ACCOMPANIED BY REAR ADM. JAMES F. McNULTY, USN (RETIRED), SUPERINTENDENT, GREAT LAKES MARITIME ACADEMY, NORTHWESTERN MICHIGAN COLLEGE; REAR ADM. JOHN AYLMEER, USMS, PRESIDENT, MASSACHUSETTS MARITIME ACADEMY; REAR ADM. KENNETH CURTIS, USMS, PRESIDENT, MAINE MARITIME ACADEMY; AND REAR ADM. WILLIAM H. CLAYTON, USMS, SUPERINTENDENT, TEXAS MARITIME ACADEMY

Admiral MILLER. Thank you, Mr. Chairman.

Admiral Ekelund from California Maritime that services the Western States could not make it today.

Before testifying, Mr. Chairman, we would like to express our appreciation for the support of the subcommittee over the years.

For two years, the Office of Management and Budget and the Maritime Administration have proposed to essentially eliminate Federal funding for the state maritime academies.

This could be our death knell. Your restoration of funding last year, and sponsorship this year of S. 800 are deeply appreciated.

We are here to address two issues: no funding in the President's budget for fiscal year 1988, and a MarAd proposal to lay up the training ships after their 1987 training cruises.

And I would like to submit our combined statement for the record, and summarize it here today.

Senator BREAU. Without objection, so ordered.

Admiral MILLER. The President's budget for fiscal year 1988 has provided no funding for the State maritime academies. The reason given, as we have heard you discuss before us, is an oversupply of merchant marine officers.

This rationale is hard to understand when the recent Navy, GAO, Transportation Institute and many other studies indicate that there will be an extreme shortfall of mariners by 1992, about the time our freshmen graduate.

If you think of it in other terms, if the Navy lost 300 ships, would we close Annapolis, or would we build more ships?

The Navy notes this shortfall, considering just the ready reserve fleet and the U.S. flag fleet.

This shortfall is exacerbated if you add manning for the national defense reserve fleet, economic shipping, and most of the effective U.S. controlled shipping.

So the problem is really worse than what was discussed here this morning.

The Navy study assumes the present output of graduates from the State and Federal academies. When you add the manning of the NDRF, the effective U.S. controlled shipping, and economic shipping, which was not addressed in the study, and then add to that no output from the state maritime academies, the problem is indeed severe.

Yet in the face of all this, the President's budget proposes to eliminate us.

As to laying up the training ships, MarAd wants to do so based on the President's budget proposal for fiscal year 1988.

We all know this is just a proposal. The Congress provided funds for fiscal year 1987 to operate and maintain the ships. There was no direction to lay them up in fiscal year 1987.

We believe MarAd cannot make such a decision based on a proposal.

Since 1874, our Federal-State and student relationship has been responsible for recruiting, and training new lifeblood for our maritime industry.

If the state maritime academy program is terminated, a large input to the industry and the armed services will dry up. Seventy-five percent of our graduates last year, a few months after graduation, got jobs in the industry or went into the armed services.

Also the training ships will no longer be quickly ready to serve as troop ships on short notice. I hasten to point out, the Navy study presently lists three training ships as troop ships to be manned in an emergency.

The ships are widely dispersed around our Nation, and are not in vulnerable reserve fleets. They are at free campus piers. Our cadets are paying for the privilege of maintaining them, and the states are sharing expenses.

MarAd's proposal is clearly not in our Nation's best interest. Without the ships, our cadets will have great difficulty in meeting federally mandated license requirements. Our States and students pay most of the cost of operation of our schools. We submit that our Federal-State student relationship, a relationship that has lasted for 113 years, is cost effective.

We believe we are one of the best bargains in town. Should we be forced to shut down and cut off 70 percent of our Nation's Merchant Marine officer supply at a time when a significant number of those sailing today are 59 years of age or older? When Federal studies indicate a need for more graduates?

Since 1874, you and the citizens you represent have built these unique maritime-specialized institutions of public higher education. Our accomplishments are well known. I know you realize more than any other tax-supported activity education heralds the future. It is the foundation of progress and, in our case, it can be the key to our Nation's industries' vitality.

The money you direct to the academies is not money spent and gone, it is money invested. It is a contribution to tomorrow with

rates of both material and intangible return no other instrument of public investment can approach. I repeat again, we recruit, train, and educate for the industry.

We have appreciated your support in the past, and thank you for your support in Senate bill 800. We would be pleased to answer any questions you may have.

[The statement follows:]

STATEMENT OF THE PRESIDENTS AND SUPERINTENDENTS OF THE MARITIME ACADEMIES/
COLLEGES OF CALIFORNIA, NEW YORK, MAINE, MASSACHUSETTS, THE GREAT LAKES
REGION AND TEXAS

We, the Presidents and Superintendents of the State Maritime Academies/Colleges of California, Maine, Massachusetts, The Great Lakes Region, New York and Texas, appreciate the opportunity to present our comments on the budget for maritime education and training proposed by the Maritime Administration of the Department of Transportation. We have deeply appreciated this Committee's support in the past and appreciate introduction of Senate Bill S 800 which continues support for the State Maritime Academy system. This is a companion to House Bill HR 953. Of deep concern is the total elimination of Federal support for the State Maritime Academies.

The Maritime Administration's proposal, were it to stand, sounds the death knell for the State Maritime Academies. Our critical concern arises from the Maritime Administrator's recent letter to each of the State Academies operating training ships (all but Great Lakes) that the ships will be laid up and decommissioned upon completion of the 1987 training cruises.

Coast Guard regulations and international maritime agreements require at sea training as a basic merchant marine licensing requirement. This is the basis of our charge that the loss of training vessels effectively closes the State Maritime Academies.

The loss of these ships seriously threatens the schools' ability to sustain themselves as educational institutions in that the ships serve as the primary laboratories for obtaining real-world, real-time experience. These ships serve as training facilities in which the Cadets learn their trade, practice their respective engineering specialties, and develop their skills to the level of professional acceptance. To take the ships away from the schools is to deny them their primary classroom laboratory and training facilities and prevent the schools from awarding credit hours for shipboard training which is necessary for graduation and professional certification. These ships must be maintained at the respective academies or there is simply no reason to maintain the academies.

The Maritime Administrator's notice to recall the ships is difficult to comprehend in that it is based on the President's Budget proposal. It is not based on law as we read the Maritime Education and Training Act of 1980. Rather, this unilateral action on the part of the Administrator assumes no Congressional action on the Budget.

Many of you will recall that last year the Maritime Administrator tried a similar approach derived from that year's Budget Proposal when he gave the schools notice to cancel the Agreement as established by the 1980 Maritime Education and Training Act and predecessor acts, thus severing the State/Federal partnership which has been in existence since 1874. That action also in effect usurped Congressional prerogatives. The wisdom of the Congress prevailed and funding was restored at a level reduced by 24%. This reduction was not contested, being accepted as part of the burden of reducing the Federal deficit. In effect, we bore much more than our fair share of proportional reductions willingly.

The proposed termination of funding raises the specter not only of the closing of the schools, but also the loss of their National Security value to the Nation and the loss of their supply of skilled officers into the Maritime Industry and Armed Forces. The President cites an "oversupply" of graduates as the reasoning behind his Budget Proposal. It is difficult to conceive that the Administration wants to take this action on one hand, while on the other hand, the studies noted above and others, find that the United States will be critically short of personnel to man just the Ready Reserve Fleet and U.S. Flag ships by 1992. This finding of a shortfall is made with the assumption that the State and Federal Maritime Academies will continue to produce the present annual output of licensed officers.

It is important to note that the shortfall projected by the studies does not include manning the National Defense Reserve Fleet (NDRF), 80% of the Effective U.S.

Controlled Shipping (EUSC) and economic shipping, that which transports strategic material. If these ships are included in the study of the manning problem, additional strain is quickly added to an already limited pool of active U.S. seafarers. We all agree it is sheer folly to rely on foreign seafarers to man EUSC ships in a national emergency.

Representative Walter B. Jones, D-NC, Chairman of the House Merchant Marine and Fisheries Committee, has recently stated, "Inadequate manning was the Achilles heel of emergency sea-lift. This Navy study proves it. We have an alarming situation and the government must now address the problem and be willing to come up with the funding necessary to implement solutions." The Chairman of the Joint Chiefs of Staff, Admiral William J. Crowe, Jr., has stated that the studies show that "all of them are coming to . . . an awareness that a Merchant Marine is more than a ship. It's the people to run them."

Given all of the above, the Administration, the Office of Management and Budget and the Maritime Administration yet remain unconvinced of the necessity for the State Maritime Academy system to continue.

We believe there is a clear statement of the need for trained Merchant Marine Officers now and not just in 1992 because only the graduates of today will be able to upgrade their licenses to meet the full spectrum of the industry's manpower requirements in the future. You don't stop training entry level officers just because you have enough Captains and Chief Engineers today.

Certainly if the State Schools close, then the long-standing officer feeder systems, the base to train Merchant Marine Officers in an emergency, will severely contract and be difficult to regain, if at all.

What is likely to happen if these programs are terminated? We believe the outcome is fairly predictable. With the termination of Student Incentive Payments, the students will immediately petition for the elimination of their obligation to take naval science courses and they will obviously not commit themselves for eight years of Reserve service. Succession to the U.S. Naval Reserve/Merchant Marine Reserve from its primary source will dry up. In addition, the quality graduates, about eleven percent, that go on active duty with the Navy will no longer do so. Today many flag officers in the Navy are graduates of the State Academies.

If the maintenance and support to the State Academies is terminated, the various states will simply reduce their appropriations to the Academies by \$100,000 equal to the grant they will no longer receive. This, coupled with the removal of incentives for the students, will cause those State Academies without NROTC programs to re-evaluate the cost and utility of hosting the Navy program. Our continued relationship with the Navy would be in jeopardy and result in further estrangement between the Merchant Marine and the Navy. These perceptions of outcome are not threats or meant to be vindictive in nature and are certainly not scenarios desired by any of the schools, but rather we feel would be the natural result of the Federal Government's demonstrated lack of interest, need, support or appreciation of our programs. If you don't want us, then we will be leaving—a dangerous attitude with respect to national defense needs.

Just as it has been shown by the actions of our nation's founding and successive legislators, it is our opinion the Federal Government has a significant stake in ensuring that there is an adequate level of education in Naval Science among operating officers of the Merchant Marine. This same partnership can produce Merchant Marine Reserve officers who are similarly qualified and available to man the Ready Reserve Fleet (RRF), the National Defense Reserve Fleet (NDRF), the Effective U.S. Control (EUSC) ships, and to additionally provide necessary liaison officers and staff augmentees in time of mobilization. A system that does this with costs shared between the Federal Government, the State Governments and the students themselves, is the most cost-effective for all sectors. We hasten to point out that our State School students' cost share is the largest. State school students have historically paid their own monies by choice to secure a maritime career and will continue to do so given some meaningful evidence of Federal support.

Since 1874, you and the citizens you represent have built these unique maritime specialized institutions of public higher education. Their accomplishments are well known. More than any other tax-supported activity, education heralds the future. It is the foundation of progress and, in our case, can be the key to our industry's vitality. The money you direct to the Academies is not money spent and gone; it is money invested. It is a contribution to tomorrow, with rates of both material and intangible return no other instrument of public investment can approach.

We believe that the Congress should provide some adequate level of support to the most cost-effective way of achieving its national objectives. In terms of the Federal interest in the maritime education and training of licensed officers and Merchant

Marine Reserve officers we think the criterion for determining cost-effectiveness is the Federal cost per licensed officer receiving an approved core of naval science education. We are confident that our programs justify Federal support measured against that criterion. They do so based on current cost.

The Administration states that the increasing maintenance and repair costs of the five training ships and major costs of prospective replacements are not justified inclusions in the Federal Budget.

On a related subject, the Maritime Administration periodically proposes ship sharing between the various State Academies. They do so with no apparent recent studies, with little discussion, no cost and comparative analyses of the present system including replacements. In regard to ship sharing on 8 February 1984 in a Hearing before the House Subcommittee on Merchant Marine, the then Maritime Administrator addressed ship sharing. The following is a direct quote: "First of all, let me say that the reviews which were conducted over a year ago about the possibility of consolidating have proved to be unrealistic and unfeasible, and I intend to keep a good training ship for each of the schools."

We, the Superintendents and Presidents of the State Schools, know the previous Administrator was correct and we would welcome an objective review. Our major concerns relate to safety in that you simply can not move college students from an ashore environment to a sea going environment in which they are the crew without having a ship available for familiarization and drills. In addition, MarAd's discussions on ship sharing leave little realistic time for ship maintenance. Crewing and related costs are equally unrealistic. The costs of maintaining the training ships have risen primarily due to years of neglect by MarAd. MarAd has annually funded only the bare minimum to meet Federal (US Coast Guard) safety requirements. It should be noted that the training on these ships alone produces a supply of over 700 skilled officers per year. The total cost in 1986 for all five ships was \$8 million dollars out of a total Federal Budget for the State Academies of \$12 million. The Fiscal Year 1987 budget was approved at \$9 million to include ship maintenance and repair, the \$100,000 grant, Student Incentive Payments, etc.

The training ships offer yet another advantage to the Federal Government within this cost. Although old, they are an available and ready trooplift capability that does not exist in adequate numbers elsewhere in our national ship inventory. The Maritime Administration does not recognize this fact and appears to be eager to strike them as navigable ships. We submit that such action is not in the national interest given our Nation's mobilization trooplift requirement. It is interesting to note that the Navy's Director of Strategic Sealift on 11 March 1986 before the House Subcommittee on Merchant Marine stated that the Navy has included the five State Maritime Academy training ships in the calculations of troop-carrying capability. Three are specifically so noted in the Navy's Merchant Marine Manpower Study. The Navy obviously needs them. Obviously in the present administration, only the Congress can protect them.

In addition to allowing our Cadets to meet Federally mandated at sea requirements for a Federal Merchant Marine Officer's License, these training ships can presently be called upon on short notice to help meet our Nation's trooplift requirement. There are few ships to meet this national need other than the State Maritime Academy ships. These ships are strategically located around our national sea coast with free pier space and are not nested in a vulnerable Reserve Fleet mooring. They are being maintained cost-effectively by our students with the States sharing expenses. That partnership equation would appear to accommodate our Nation's budgetary problems today. What better deal could the taxpayer ask for! Loss of the ships at the Academies will not only impact on future officer training, the loss will also create an increase in necessary funds for maintenance and breakout of the present ships when they are subsequently retired to the Reserve Fleet. These ships are constantly being groomed at the campus piers now, hot iron, steam up, and ready to go.

The Navy has a mandated requirement for a sealift capability for 17,000 troops. The existing capability is far less than that. Why exacerbate this situation by decommissioning the State Academy training ships? The Academy Superintendent/Presidents urge continuation of the cost-saving concept of training ships programmed to meet this need on short notice.

The Maritime Administration and the Office of Management and Budget apparently believe that the Student Incentive Payments are to create Merchant Marine Officers only in times of shortage; with no shortage, they should be stopped, a foolhardy philosophy readily dispelled by the history book. The Incentive Payment is, however, tied to the Merchant Marine Reserve program. It provides the incentive for students to overload their academic program in order to take the required Naval

Science core of courses and to commit themselves to subsequent training and an eight year obligation to their Nation.

It is also interesting to note that Section 1304 of Title XIII—Maritime Education and Training—only requires Naval Science training. It does, however, state that the purpose of the Act is to prepare individuals for service in the Merchant Marine of the United States. Naval Officer training is voluntary.

Although our Merchant Marine has been declining, it is important to note that the requirements for new officers is brighter now than it has been for years. Data from the Navy Merchant Marine Manpower Study points out that a significant number of seafarers are of age 59 or greater. Numerous retirements have been evidenced and more are imminent. It is not uncommon for our Placement Offices to receive telephone calls for senior positions they can't fill. Our afloat employment of the recent graduating classes is about 40% while about 22% are employed in the industry ashore and another 11% go on active duty in the Navy, Coast Guard, NOAA, etc. This amounts to about three-quarters of our graduates involved in the Industry or the uniformed services with prospects getting better.

This particular Administration is adamant about having the Federal Government remove itself from unnecessary or inappropriate endeavors and return functions to the States. But, does it make sense to remove small Federal support for this national program and terminate a true partnership with the States and the Cadets whose cost-share is significantly more than the Federal Government's?

The total number of graduates per year from the six state and regional academies is about 700. From among those graduates who accept Reserve commissions, approximately 100 volunteer for active in the Navy or Coast Guard. Each of these 100 accessions is achieved at a maximum total cost in Student Incentive Payments of approximately \$4,500 over four years, a considerable savings to the Nation over any other source of mariners fully qualified for immediate sea duty and leadership roles. This is our Nation's most cost-effective commissioning source. For our island nation, so dependent upon the sea and world commerce, this is a very valuable contribution to our security. Our students pay tuition and fees for their education, including training cruises, naval science courses, and attend eleven month academic years which deprive them of the opportunity for summer employment. They earn Federal licenses along with their degrees while in a uniformed and disciplined environment. The respective states and industrial sources contribute the balance of academy expenses over tuition. The Federal Government's share, including student subsidies, ship maintenance and repair and fuel oil, is cost-effective.

This sharing of effort represents one of the best bargains available to the Government, and yet the Administration annually seeks to reduce the Maritime Education budget by not including support for the State Academies. This very small savings to the Federal Government imposes a severe training hardship on our institutions while reducing the incentive to develop an adequate Merchant Marine Reserve component of the U.S. Naval Reserve.

We submit that the continued existence of our State supported institutions assures the most economical, cost-effective method of producing Merchant Marine officers. We believe that our students return far more to the economy and the National defense needs of our Nation than they cost and that the survival of the State Academies/Colleges is in the national interest. We have been tasked with this responsibility for 113 years.

The Maritime Administration's budget proposal, if accepted, undermines the very core of this long-standing, cost-effective, state/student/Federal relationship. It flies directly in the face of the Declaration of Policy in the 1936 Merchant Marine Act which declares that it is U.S. policy that we have a Merchant Marine capable of serving as a naval and military auxiliary in time of war or national emergency (our training ships) and that the Merchant Marine will be manned with a trained and efficient citizen personnel (our graduates).

The issues that we have described today are of extreme importance to our continued operation. The State Maritime Academies and Colleges at minimal Federal cost have produced and continue to train outstanding officers for service in the Merchant Marine, the U.S. Navy and Coast Guard, NOAA and other service-related organizations. We have appreciated your past support and we trust that we may continue to earn your confidence and support in the future.

Again we appreciate Senate Bill S. 800. Passage of this Bill along with its companion Bill H.R. 953 in the House will ensure that the most cost-effective system of producing licensed Merchant Marine/Merchant Marine Reserve Officers will not be terminated.

We would be pleased to assist you in any studies you may wish to undertake with regard to the issues that we have raised and would be happy to have the opportunity to discuss our situation with you and your staff at your convenience.

Senator BREAUX. Thank you, Admiral.

Do any of our other superintendents have anything to add that is different from Admiral Miller, or in addition? You all have gotten together on an agreed statement?

[The panel members nod in agreement.]

Senator BREAUX. MarAd tells us that they do not want to provide you any more money because we have an oversupply of officers. What is your comment on that?

Admiral MILLER. Well, as I said a few minutes ago, I am appalled that they make that statement. When you look at the Navy study which only addresses the Ready Reserve Fleet and the U.S. Flag Fleet, and when you throw in manning the NDRF, when you throw in manning the economic shipping which brings in vital commerce such as tin, rubber, whatever, and also address 80 percent of the effective U.S. controlled shipping, we really have a problem.

When you look at the assumptions and the assumptions call for an output from the State and Federal academies, if shutdown and you add all the other fleets that have to be manned in a national emergency, we have a distinct problem.

Senator BREAUX. What about the dramatic depression that the oil and gas industry is in in their shipping? It seems that today so many of your young graduates are just not able to find jobs in the business anymore. Is that not a legitimate argument that we are overproducing for day-to-day work that just is not needed today?

Admiral MILLER. Let me say that I think there are few specialized schools in this Nation that could make the sort of statement that we make, that two months after graduation last year when we ran a check, all of us combined, on the employment, the placement of our graduates, 40 percent were sailing deep sea or tug and barge, or coastal, which is required under our agreement with the Federal Maritime Administration; 23 percent were employed in the industry ashore; and about 12 to 15 percent went in the Navy or the Coast Guard. That is about 75 percent of our graduates two months after graduation were employed in the field that they were educated in.

I do not think that many specialized schools can make that statement.

Admiral CURTIS. Senator, could I add that in our own school we had a 98 percent placement of our graduates in the 1986 class; 80 percent were either in the Navy or in maritime-related employment.

Admiral MILLER. I would also like to add that 25 percent that we did not have figures on, many of them we could not contact, and I would say that there were probably quite a few that were sailing then that we just could not contact.

Senator BREAUX. Admiral Curtis, what percentage of that would be seagoing out of your large number?

Admiral CURTIS. 47 percent. I might add, too, that some of these students have readily accepted jobs as able seamen and oilers to get an opportunity to get into the industry.

Senator BREAU. What about the point about graduates accepting a service obligation? What are your thoughts on that?

Admiral MILLER. Well, on our side of the fence as opposed to the Federal school where everybody must participate to get a free education, our cadets pay for their education—if I may read out of the Maritime Education Training Act, Title 8, how our schools are set up, and I read section 1304(a):

The Secretary shall cooperate and assist with any State Maritime Academy in providing instruction to individuals to prepare them for service in the Merchant Marine of the United States.

The Merchant Marine Reserve side is strictly voluntary. Now not everyone in each incoming class, is allowed to go in that program, and that is dictated by MarAd.

MarAd tells us how many each year each one of our schools is allowed to sign up. The program has been fraught with problems over the years, and slowly the dust is settling. I mean, at one point, Mr. Chairman, the program was written, and of course this is a Federal program, that our cadets could opt out right up until the last minute before graduation. That was changed about two years ago.

Senator BREAU. What about your attendance? Are we getting more? Fewer? About the same number of entering students?

Admiral MILLER. No, we are all down about 25 percent on the average, I believe. I can provide it—each school is a little bit different. In fact, if I may, I can give you that figure in one short second.

Massachusetts is down 27 percent; Great Lakes is down 69 percent; California is down 27 percent; I am down 19 percent, that is New York; Texas is down 61 percent; and Maine is down 35 percent. That is our incoming class.

Senator BREAU. Can MarAd make a viable argument that because of your decrease in number of students, therefore the reliance on Federal assistance is less?

Admiral MILLER. Just the opposite.

Admiral AYLME. Could I respond to that, if I could, Senator?

Senator BREAU. Certainly.

Admiral AYLME. I think one of the most important ways to appreciate the dilemma of the State schools is of course to examine total enrollment I would guess is about two thousand-some-odd youngsters. Given that, I think that the most important thing for the Congress to recognize is that if the State school support is deleted, in effect what the Congress would be saying to approximately two-thirds of those enrolled in maritime education, at State schools of higher education supporting the Maritime industry, is that, hell no, you are not going to be able to even pay for your own education in this profession!

I do not think anywhere in the private sector industry, which we primarily serve, can you find that set of circumstances. It can be so stated that way for the reason that the academies need training ships in order to qualify with sea time to sit for USCG licensure (a Federally regulated requirement). Without training ships, the State Academies will not be able to support their own ships. Without the ships—a denial of educational career opportunity results.

So in effect this is a denial of young people, motivated young men and women, who want a maritime career, and two-thirds of

those enrolled today are in the State maritime schools paying for that privilege with their own money. As Admiral Curtis points out, they are willing to go to sea, they aspire to sail. They are finding the jobs. They are willing to wait their turn if necessary, to move up and be promoted.

I think that is a tragic indictment of this Administration's filing of this budget. What they are effectively promoting with it once again, is a prohibition to young people who seek the opportunity for a profession in the seagoing disciplines, and I think that is tragic indictment of Federal non-interest.

Senator BREAU. The Administration does not want the government to participate in any maintenance of the training vessels, or even providing any additional training vessels.

I mean, we have got all these ships that have been taken over by the Federal Government that we are paying somebody to store somewhere, and the supply vessels, vessels in the 200-foot-plus category which it would certainly seem could be used by your State academies.

Admiral MILLER. May I interject for a second? Admiral Ekelund put forward I think a very good proposal about a month ago to Mr. Gaughan which he is looking at, taking into account just that same thing. We have vessels laid up. We are trying to put vessels in the Ready Reserve Fleet. Here we have government vessels. We have free piers. We have cadets willing to do maintenance on them. Perhaps we can work out some sort of an agreement. Mr. Gaughan is looking at that now.

Senator BREAU. Mr. Gaughan also I think made a suggestion of a ship sharing type of operation. Do you all have any thoughts about that?

Admiral MILLER. Yes, sir. Yes, sir. We have grave difficulty with ship sharing. Our answer to ship sharing was given with Admiral Ekelund's proposal. But let me just say a few words about ship sharing. Our ships are crewed by our cadets, and to take cadets from a college atmosphere and put them on a ship and two weeks later sail gives me grave concern for safety. These ships are moored alongside our piers as our main laboratories.

Every night during the school week at my school my freshmen are tracing systems. By the time our ship sails, they know where all the fire bottles are, they know where the fire hoses are, they know how to get off. We need those ships alongside the pier for that alone, aside from the main laboratory, the engineering plant, and the cargo handling, and what have you.

If we followed the proposal that MarAd had where we had, for instance, up in the northeast one ship to cover three schools, that gives us very little time to check it out and also have an overhaul every year. And if there were a problem as there has been many, many times in overhaul, or a problem during the operation when one school had it, that would just have a domino effect on all of our programs down the pike.

In fact, it would be mind boggling. But the real problem in my view is safety. Now there is a very—and I hate to use this as an example—but a very graphic example. Massachusetts Maritime about five years ago had a ship that was in overhaul for about nine

months. The ship came up to the college pier, and the next day had a fire on board, a disastrous fire.

Admiral Aylmer's freshman class, as I recall, had not even been on board that ship until that morning when they had the fire, and the cadets in the engine room did not know how to get out. They were stuck down there. Fortunately, most of them were able to get out through some quick thinking on the part of his crew. But one young cadet died.

I fear that. Safety is a real problem. Yet, we talk about ship sharing as you pointed out just a few minutes ago where we have all these ships laid up. We have cadets that are willing to work on them, States that are willing to pay for the expenses, provide free piers, free electricity, free steam, and yet we cannot seem to work out an arrangement.

Senator BREAU. Well, gentlemen, the committee appreciates all of you taking the time to come. I know the subject matter is very important, and your real survival is dependent upon a program that continues the participation of the Federal Government with the States. I am certainly committed to trying to continue that arrangement. You have got a good product, and I just do not think this is the time to make dramatic changes or threaten the existence of your operation, which it would do.

So we thank you for coming. Your appearances have been important.

Admiral MILLER. Thank you, sir.

Senator BREAU. Also, to come by and visit your schools, too. I would like to do that.

Admiral MILLER. We would very much like to have you come by. Thank you for your support.

Senator BREAU. Well, thank you.

This panel is excused, and this will take care of all of the witnesses that we have for this morning's hearing.

We have some statements that we would like to have submitted at this time, the statement of Mr. Paul Burnsky, who is President of the Metal Trades Department of the AFL-CIO, and an additional statement from Mr. John Storm, President of the National Council of Maritime Academy Alumni Associations. Those will be made a part of our record.

With that, we have no further business before the committee this morning, and the committee will stand adjourned until further call of the Chair.

[Whereupon, at 12:07 p.m., the committee was adjourned, subject to the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF THE NATIONAL COUNCIL MARITIME ACADEMY ALUMNI ASSOCIATIONS

The National Council, Maritime Academy Alumni Associations was established in 1968 to form a body which could address matters of mutual concern to the various academies. The Council represents more than 30,000 graduates of the Federal and State Maritime Academies, and meets several times a year to review conditions affecting the alumni and the various schools. Today, we have concern for the uninterrupted support to the schools by continuing traditional federal support.

The maritime academies are a major source of trained, well educated officers for the industry. A significant number of graduates are also commissioned in the Navy and Coast Guard. Graduates are a cadre for peacetime and wartime manning of U.S. flagged ships, and knowledgeable of military maritime matters.

We have grave concern for the current status and future of our U.S. Merchant Marine. In recent years deemphasis on maritime programs vital to economic and defense well-being of the United States has adversely impacted on the health of the industry.

The maritime industry is vital to this nation as a major economic and military world power. As an island nation, the United States is dependent on seelines of communication for world trade and to project our influence. In peacetime ships carry the commerce which is our lifeblood of prosperity. Our national flag used to be shown in every corner of the globe. Today, this is not so—there are geographical areas this flag is rarely seen. In wartime a U.S. Merchant Marine is critical for the conduct of effective military operations.

Since the birth of our nation in the Revolutionary War, the merchant marine has been essential in the conduct of national policy. Commissioned privateers made major contributions in the Revolutionary War and the War of 1812. The Mexican War demonstrated a need for the merchant marine to project forces, as did the Spanish American war. In both instances, crash programs were necessary to "meet the need".

World War I saw the U.S. without an adequate merchant marine, which necessitated obtaining shipping from our European allies. A building program for ships, although authorized, could not meet the needs in time available. World War II did see the U.S. build the largest fleet of ships the world has ever seen. However, it must be recalled, the Merchant Marine Act of 1936 provided a four year lead time before we formally entered the war in December 1941.

World War II taught a lesson that was a maritime policy for the better part of 40 years. Those thousands of ships built to sustain military operations world-wide were not scrapped, but placed in the National Defense Reserve Fleet. They were needed and used for Korea and Viet-Nam. The Maritime Academies provided, in a large measure, Deck and Engineering Officers to man ships which carried the military cargoes. Even so, manpower was stretched to the limit to man the ships.

In 1987 the national policy for security of the U.S. is based on the concept of forward defense. Forward defense requires the immediate (assured) deployment and support of U.S. military forces worldwide, with most of the units and material transported by sealift. However, with the continued decline of the U.S. merchant marine, the inadequacy of sufficient commercial shipping has led to the establishment of a Defense Department Reserve Force, funded by Navy through the Maritime Administration. This pool of Reserve ships is approaching one hundred in 1987, and is expected to be increased to over 130 ships in the next several years. These ships are to be activated, manned and sail to loading ports within 5, 10 and 20 days.

Manning of this large number of ships in such a short time period has raised questions, for several years, of "can they be manned?". In 1986 the Navy directed a study of this issue. Potential serious shortfalls in ready availability of seafarers were identified. The deficiency was highlighted in the recent Transportation Institute treatise "America's Vanishing Merchant Mariners: Diagnosis, Prognosis, and Prescription for Strong National Defense". The Treatise pointed out that to assure

adequate numbers of active seafarers to man defense shipping, the size of the merchant fleet would have to be increased to about 600 ships.

The Maritime Academies represent a significant source of trained manpower. In a sense the academies are a "hot" mobilization base. Annually the schools graduate licensed Deck and Engineering Officers with the requisite skills to sail ships. It is recognized there are insufficient active U.S. merchant ships for these graduates to sail immediately on their licenses, but they are trained. Those not sailing elect to align with maritime industry positions ashore, and a large number request active duty with the U.S. Navy, U.S. Coast Guard, and serve admirably. (Today there are more than a handful of graduates who have served with distinction, achieving Flag rank, with some testifying before these Congressional hearings.)

The point I wish to make is that the academies annually graduate personnel who can man the ships of the Ready Reserve Force. Their skill levels are high and even though not sailing on their licenses, will retain the skills for a rather extended time period. Say, three to five years. If you were to run a survey you would find a real eagerness for the vast majority to be on a ship, even if it were not for a permanent career. In the first one or two years these graduates are mobile. They will not be firmly committed to a particular business, nor have the family commitment. With a little organization they can be considered readily available to "fill the gap," to man licensed positions on ships of the Ready Reserve Force.

To ensure that the maritime school graduates are properly trained they must have experience on operating ships. There is no substitute for eyeballing ship operations at sea. Traditionally there are two ways to get this "hands on" experience. First, students sail as cadets on U.S. flagged ships. There are not nearly enough ships in service today to meet the requirement. Second, are the training ships, which are the training vehicles for the State Academies.

Until recently there has been a firm commitment by the Federal Government to provide adequate resources to the Federal and State Maritime Academies to train graduates properly. A cut back in any area can seriously impair sustaining a source of vital manpower critical to implementing a national policy.

The Maritime Schools today represent an essential part of the nation's mobilization capability, and at a minuscule cost. I would ask the Committee today to recognize the need to continue full funding of the Federal and State Academies.

The National Council strongly supports the inclusion of complete funding S. 800.

STATEMENT OF THE NATIONAL CUSTOMS BANKERS & FORWARDERS ASSOCIATION OF AMERICA, INC.

Mr. Chairman. I am Arthur J. Fritz, Chairman of Fritz Companies, Inc., and President of the National Customs Brokers and Forwarders Association, the national association of customs brokers and freight forwarders who provide an extensive range of services in international trade.

As you are aware, Mr. Chairman, freight forwarders form an indispensable link between shippers and carriers. Forwarders are chosen by shippers to select space aboard ocean-going carriers for the transportation of their products overseas. Their task is to meet the customers' many concerns: time, reliability, efficiency and cost. At the same time, a forwarder who has a good working relationship with a carrier can be that carrier's best marketing agent. In fact, a substantial part of the forwarder's total income is paid by the carrier, as a percentage of the charges. The forwarder then has a service relationship to both—to find the shipper the best possible transportation service and to provide individual carriers with customers.

Last year, Congress passed a critical "independent action" amendment to the Tax Reform Act, essential to protect U.S. freight forwarders against unfair practices by steamship conferences. The provision is limited to steamship lines who participate in conference pursuant to antitrust immunity granted to them in the Shipping Act of 1984.

Prior to passage of the "independent action" amendment, freight forwarders were placed in the position of having conferences jointly agree to limit freight forwarder compensation to artificially low levels. Moreover, an individual steamship line could be prohibited by the conferences from negotiating any higher compensation. The Federal Maritime Commission ruled that forwarder fees were not subject to the Act's independent action provisions, unlike other elements of the Shipping Act. We believe this to be a technical shortcoming of the Act, especially in light of the Congress' decision in 1984 to establish competitive features paralleling this provision in the legislation. Finally, conference carriers were also able to add "surcharges" and

other add-on fees to their charges and in this way avoid paying forwarder fees as a percentage of the bill.

The "independent action" amendment passed by Congress last year was essential to curb growing abuses by the conferences. The amendment contains the following provisions:

Establishes a minimum rate which the steamship conferences acting in concert; must pay U.S. freight forwarders; and

Permits individual steamship lines to negotiate compensation with freight forwarders.

The "independent action" provision in the Tax Reform Act was an important first step in protecting the hundreds of freight forwarding companies and thousands of their employees throughout the United States and to establish a more competitive climate in the export trade arena.

Nevertheless, the working of the "independent action" provision limits its application to freight forwarders who are also customs brokers. Introduced in the Senate Finance Committee due to its jurisdiction over customs brokers, there existed a unique opportunity for a vehicle for passage last year. There is no reason now however not to include all freight forwarders irrespective of whether they are customs brokers. Proposed legislation will soon come before this committee to consider the merits of providing these protections to U.S. forwarders. We will certainly provide far more detailed support for our position later in the process. We would however ask you to examine our proposal carefully this year, both from the standpoint of reviewing the merits of the 1986 legislation and extending its reach to remedy more completely omissions in the 1984 Act.

AMERICAN ASSOCIATION OF PORT AUTHORITIES,
Alexandria, VA, February 23, 1987.

HON. ERNEST HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington DC.

DEAR MR. CHAIRMAN: The American Association of Port Authorities (AAPA) strongly endorses the Maritime Administration's request for a \$3.5 million authorization to fund research & development in fiscal 1988. Founded in 1912, AAPA counts among its corporate membership public seaport authorities throughout the United States—we are the U.S. port industry's national spokesman.

MarAd-funded studies are important, not only to the affected industries, but to the national interest as well. They help our port and maritime industries by indicating ways to improve productivity and efficiency. The ultimate objective here, of course, is to enhance the competitiveness of American goods and services abroad and to hold down costs at home. The strength and capabilities of our maritime industries are also important national security considerations.

Recent MarAd or MarAd-supported studies of particular benefit include *Public Port Financing in the United States*, the *Port Risk Management Guidebook*, *Port Handbook for Estimating Marine Terminal Cargo Capability*, the *Port Economic Impact Kit*, and the *Port Financial Management Information System*, to name just a few. A fine study published last year by the National Research Council, *Improving Productivity in U.S. Marine Container Terminals*, would not have been possible without MarAd's support. The *Port Emergency Operations Handbook for Federal Port Controllers*, now in press for MarAd, will be an invaluable tool in preparing U.S. ports to support our Armed Forces in the event of war or national emergency.

MarAd's request represents a very small fraction of the federal budget. By any measure, the benefits from MarAd's special studies far outweigh their costs. We believe that it would be shortsighted and counterproductive not to provide MarAd with this money in fiscal 1988. We ask you to give it the most favorable consideration. Thank you.

Respectfully,

DONALD J. SCHULTZ.

STATEMENT OF PAUL J. BURNISKY, PRESIDENT, METAL TRADES DEPARTMENT, AFL-CIO

Mr. Chairman, Members of the Merchant Marine Subcommittee, I appreciate the invitation to submit views on the Fiscal 1987 authorization legislation for the Maritime Administration and the Federal Maritime Commission.

I am President of the Metal Trades Department of the AFL-CIO, which is made up of some 22 national and international unions whose members are production workers in the major commercial U. S. shipyards and in U. S. naval shipyards. Our Department was organized in June of 1908, almost 79 years ago. The skilled craftsmen of our affiliated unions have a proud tradition of building the nation's fleets in time of war and our merchant vessels sailing the seven seas in commercial trade in times of peace. Our dedication and pride is that of once the world's leading maritime nation--true to our historic sea-going tradition.

For the past several years, I have candidly apprised this Subcommittee and Members of the House and Senate in numerous communications the views of the Metal Trades Department on the state of our nation's shipbuilding and maritime industry. I have repeatedly called attention to what we feel is the highly dangerous decline of the U.S. shipbuilding industrial base and the U. S. Merchant Marine, largely because of policy failures by the Reagan Administration, complex national and world economic factors, and the failure of Congress to fill these policy vacuums despite its efforts to forge some type of viable consensus among competing economic interests.

Our expressions of concern over the years, however, have contained specific positive ideas of how a consensus might be reached among these diverse interests. Certainly there are many areas on which shipping interests, the shipbuilding industry, and shipyard and sea-going labor can agree. In my statement to this Subcommittee on February 28, 1985 on similar MARAD/FMS authorization legislation, I suggested eight basic principles on which we feel there is general agreement and around which might be forged the elements of a bi-partisan shipbuilding and maritime policy that will not only deal with our short-term and long-range problems, but also will address the vital issues associated with the Navy's 600-ship fleet and mobilization base requirements. During these past two years, our Department has been seeking broader understanding of these complex maritime issues here in the Congress and among the general public.

Again last December, we sponsored the 4th in our series of National Shipbuilding Conferences of delegates of our member unions from all parts of the country and all segments of the shipbuilding and Naval shipyard areas to deliberate and recommend actions to address our concerns. These recommendations will be covered later in my statement. During these past two years, we have joined forces with many other shipbuilding and maritime groups and with Members of this Subcommittee in key battles to preserve what is left of our industry -- the Trade bill, the Cargo Preference Amendment to the 1985 farm bill, the fight to block the Administration's efforts to subvert the Jones Act, its plan to authorize wholesale foreign building of U. S. vessels, and efforts to re-flag foreign-built cruise ships. On some issues we have won. On others, a stalemate has been the result.

In all of these struggles we have seen the Administration's contempt for existing U. S. maritime law that has served us well for over 50 years. The Administration has continued to thumb its nose at any form of Federal support for the vital shipbuilding/maritime industry, despite the fact that every other shipbuilding nation in the world is pumping funds into their industries. Now it seeks in the Fiscal 1988 authorization measure to eliminate the Title XI Federal Ship Mortgage Guarantee program after previously killing the Construction Differential Subsidy (CDS) program and failing to adequately fund the shipbuilding research and development program to encourage the modernization of merchant ship construction in the United States. We urge you to preserve the Title XI program and support the recent application of the American Ship Building Company for assistance in constructing the two 800-passenger cruise ships in its U. S. yard. It would provide an estimated 2,000 badly-needed shipyard jobs and hundreds of sea-going jobs and would be the first viable effort to build in the U. S. efficient, modern passenger vessels in more than 30 years.

Mr. Chairman, one of the great ironies of the Reagan Administration's misguided shipbuilding and maritime policies cannot be explained in rational ways by defenders of such policies. Why is it that while our greatest investment in national defense has been taking place -- spending of well over \$1 trillion to build the most elaborate, complex, and expensive defense establishment in our history -- our Commander in Chief has ignored the collapse of the critical delivery and support system in shipbuilding and merchant marine shipping needed to supply and maintain any U.S. military capability beyond our shores? Yet, unlike the public outrage over other failed Administration policies

such as the Iranian "arms-for-hostages" deal and the diversion of funds to the Contras, there is little public understanding of the harm which has been done to our shipbuilding industrial base by the Administration's contradictory policies that have done grave damage to our national security.

Last year, the President pocket-vetoed the Fiscal 1987 MARAD authorization bill (H. R. 4175) because it refused to terminate the Title XI program. Its demand is that the maritime industry "rely on the private credit market without Federal intervention as its source of capital if we are to continue our progress toward restoring that industry to full health." That statement by the President represents a naive, ignorant and dangerous attitude about an industry that is a vital component of our national defense and ignores what has been happening in the real world from which he has been carefully sheltered by his staff.

We suggest, Mr. Chairman, that the President carry out his sworn duty to enforce the law presently on the books -- particularly section 101 of the Merchant Marine Act of 1936:

"It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States, and to provide ship-ping services essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States insofar as may be practicable, (d) composed of the best-equipped, safest and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and (e) supplemented by efficient facilities for shipbuilding and ship repair. It is hereby declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine." (emphasis supplied)

Section 210 of that same law also requires the creation and maintenance of efficient shipyards and repair capacity in the United States, with adequate numbers of skilled personnel to provide an adequate mobilization base for our nation.

It is obvious that this Administration and its President has failed its Constitutional duty to take care that the law is faithfully executed. The Merchant Marine Act has served our nation well over the years, both in peace and war. Policies pursued during the past six years by the Reagan Administration have been clearly contrary to the clear purposes and objectives of that Act and have resulted in grave damage to our domestic shipbuilding and maritime industries and undermined our national security as well.

Mr. Chairman, the nation has been cheated by this Administration and has been deceived by the maritime spokesmen charged with carrying out its bankrupt policies. We remember clearly candidate Reagan's 1980 campaign promises and the pledges in the Republican Party platform to "revitalize" the U. S. shipbuilding industry and our merchant marine. Those rosy promises are in direct contradiction to Administration actions taken during the last six years which terminated the CDS program; opposed cargo preference for U.S.-flag carriers; failed to enforce existing cargo preference laws; vetoed Title XI loan guarantees; opposed the "build-and-charter" initiative; and eliminated the "Buy American" rule on ships built with Title XI loan guarantees. At the same time, it has vigorously pushed for authority to permit construction or acquisition of vessels in foreign shipyards for reflagging in the U. S. -- a policy that, if successfully carried out, would be the death-knell of the American shipbuilding industry and cause the loss of virtually all non-Navy shipbuilding jobs for American workers.

Administration actions in the shipbuilding and maritime areas -- disastrous as they are -- are part of a pattern of broader dereliction of duty that strikes at the heart of America's manufacturing capability and economic viability in the future. Trade, defense procurement, and foreign policies advanced by the Reagan White House have seriously eroded the U. S. industrial base. Our mills, factories, and shipyards are more than just key sources of employment for Americans. They are also the backbone of our defense industrial capability -- and they are disappearing at a rapid rate.

Mr. Chairman, many thousands of defense contracts are being awarded to foreign suppliers who are now manufacturing increasing numbers of key components for U. S. weapon systems, including U. S. Navy combat vessels. As a result, we are losing key skilled technology and the ability to produce hundreds of items of defense hardware that are critical to the weapons we need to defend ourselves in time of war. Blanket waivers of the "Buy American" law gives foreign companies preference over U. S. firms in many instances and puts U. S. workers in the impossible position of competing with sweat-shop or near-slave labor in subsidized foreign factories and shipyards.

American companies that formed the core of the U. S. defense industrial base and employing American workers are finding little support from the Reagan Administration. Many have gone bankrupt, particularly the subcontractors in the small business community, as they try to compete with unfair international firms who enjoy a wide range of direct and indirect subsidies provided by their governments -- often with the assistance of U. S. tax dollars. As this dangerous trend continues, skilled U.S. workers migrate by necessity out of the occupations that are vital to preserving our industrial base and into lower-paying, service-related jobs that contribute little to our national security. Meanwhile, our country becomes more dangerously dependent on foreign sources for key manufactured defense components -- sources that could someday easily change their alliances and become unfriendly to the U. S. or be taken over by other governments hostile to our nation. This disastrous mismanagement of our defense industrial base by the Reagan Administration and the dangerous reliance of our nation on other countries' manufacturing capacity is one of the best kept secrets in Washington. But other Congressional committees will soon be holding investigative hearings on the national defense implications of such foreign source procurement and I'm pleased to note that this Subcommittee will also be holding hearings on the maritime implications of such trade and procurement policies of the Administration.

Earlier in my statement, Mr. Chairman, I referred to recommendations put forth in the 4th Biennial National Shipbuilding Conference of the Metal Trades Department, held here in Washington last December. I would like to conclude my remarks by providing the Subcommittee with those recommendations, unanimously adopted by the Conference delegates. They are as follows:

1. continue to SUPPORT and urge vigorous enforcement of the Jones Act, limiting the domestic shipping trades to U.S.-built and manned vessels-- while continuing to oppose the "re-flagging" of foreign-built ships that would weaken that law;
2. continue to SUPPORT and urge vigorous enforcement of existing cargo preference laws for military cargo, and all government-owned and/or government-impelled cargoes, including the new law affecting various types of government surplus farm commodities;
3. continue to SUPPORT and urge vigorous enforcement of provisions of the Merchant Marine Act of 1936 (as amended) to maintain a strong U.S. Merchant Marine and viable shipbuilding capability, with sufficient skilled personnel to provide an adequate mobilization base in time of emergency;
4. continue to SUPPORT and urge vigorous enforcement of existing laws such as the Davis-Bacon and Service Contract Acts, the Occupational Safety and Health Act, environmental differential pay for hazardous shipyard jobs, and other laws designed to protect the health and working standards of American workers;
5. continue to SUPPORT the Navy's shipbuilding and conversion program to achieve the goal of a 600-ship fleet needed to strengthen our national defense;
6. continue to SUPPORT efforts to forge a comprehensive, fair and workable national maritime and shipbuilding program, with an innovative research and development component to modernize ship design and construction technology; a component to upgrade U.S. shipyard capability to help preserve shipyard jobs and skills; and a cargo preference policy that will assure at least twenty percent of our exports and imports are transported on U.S.-flag vessels;
7. continue to SUPPORT and advocate fundamental changes in our trade laws with foreign nations to assure fairness for American workers and American industries flooded with cheap, sweat-shop goods produced by exploited

foreign labor and to assure preservation of our basic manufacturing capability, so essential to the maintenance of a viable defense industrial base;

8. continue to SUPPORT funding for adequate operations of the U. S. Coast Guard and the maintenance of its shipbuilding base at Curtis Bay, Maryland;
9. continue to SUPPORT efforts to enact legislation such as the High Risk Occupational Disease Notification and Prevention Act; measures to provide compensation to victims of asbestos-related diseases; to protect workers engaged in the handling of nuclear materials, and in other hazardous workplace environments;
10. continue to SUPPORT full funding and commitments under Title XI ship construction loan guarantee law, now being subjected to attack by the Reagan Administration, as well as other proposals to assist the financing of ship construction in U.S. yards;
11. continue to SUPPORT efforts to assure the construction of modern American cruise ships in U.S. shipyards, thus creating needed jobs for shipyard workers and sea-going jobs for maritime labor;
12. continue to OPPOSE the Reagan Administration's dangerous "build foreign" policy that would permit American ship operators to acquire commercial vessels in sweat-shop foreign yards, thus destroying the U.S. shipbuilding industrial base;
13. continue to OPPOSE efforts of the Reagan Administration to export Alaskan oil to Japan and other foreign countries, thus weakening our U.S. tanker fleet vital to national security;
14. continue to OPPOSE unfair "contracting out" of service functions by Federal agencies that cause the loss of civilian Federal jobs and OPPOSE "low-ball" bidding procedures in Navy procurement that cause delays in construction and overhaul work, penalize union workers, and result in cost-overruns;
15. continue to OPPOSE Reagan Administration efforts to subject Federal workers to drug testing and polygraph testing;
16. continue to OPPOSE Reagan Administration trade policies that have cost hundreds of thousands of American workers their jobs, crippled the U. S. industrial machinery, and have resulted in the largest foreign trade deficit in our history;
17. continue to OPPOSE Reagan Administration defense procurement policies that waive "Buy American" laws, penalize American workers and supplier industries, and result in an over-reliance on foreign produced parts and components for U. S. defense systems, and to urge Congressional review of existing laws so that "Buy American" provisions can be strengthened; and
18. to authorize U. S. shipyards to construct warships (including diesel-electric submarines) for foreign countries when U. S. technology will not be compromised.

Finally, Mr. Chairman, we would point out that these recommendations are not only in the best interests of our membership, but also are in the best interest of our nation as a whole and would contribute to the strengthening of our shipbuilding and maritime industries and our national security. We appreciate the courtesy of this Subcommittee in enabling the Metal Trades Department to state our views on the important matters involved in your jurisdiction. We look forward to working with you during the 100th Congress.

STATEMENT OF PETER J. LUKIANG, EXECUTIVE DIRECTOR, TRANSPORTATION INSTITUTE

Mr. Chairman and members of the Subcommittee:

Thank you for this opportunity to provide our statement for the record regarding Fiscal Year 1988 authorizations for maritime programs to be administered by the U.S. Department of Transportation and the Federal Maritime Commission. The Transportation Institute is a nonprofit research and educational organization dedicated to the preservation and promotion of a strong American maritime industry. Our member companies operate U.S.-flag vessels in the Nation's foreign and domestic shipping trades, including the Great Lakes and inland waterways.

In 1987, the U.S. maritime industry is on the critical list as it struggles to survive. A tenacious slump in global shipping has combined with years of government neglect to hasten the contraction of the once substantial U.S.-flag merchant fleet. Today, well under 400 private, commercial oceangoing American vessels are actively employed, more than half of them in the domestic trades. The remainder fights over a tiny five-percent share of U.S. imports and exports.

While development and implementation of a comprehensive national maritime policy would go a long way toward reversing the industry's ill fortunes, we have instead today a patchwork of often archaic remnants of past programs. Some have outlived their usefulness. Some have withered for lack of support. Gaps created by program terminations have been allowed to stand.

The Administration's approach to this state of affairs has been to reduce further its levels of support essentially for fiscal reasons. While we sympathize with and support all responsible efforts to get the Federal budget deficit under control, we believe it extremely short-sighted and dangerous to sacrifice the fourth arm of the Nation's defense in the process, particularly when it is not clear there would be any real savings. The elimination of construction-differential subsidy, the abrupt cessation of new contracts under operating-differential subsidy, and the continuing attacks on the Jones Act, cargo preference statutes and their enforcement, and other essential maritime promotion features, together form a composite picture of an Administration unwilling to come to terms with the dire condition of one of this country's most important defense industries.

As a major first step in developing a comprehensive national maritime policy, members of this Subcommittee, other members of Congress, ship operators and labor representatives have been trying to devise a new system of operating subsidy that would better meet the needs of the industry and of the Nation. Several bills to this effect were introduced in the last Congress, and we are happy to note that the process has been renewed in earnest early in the present session. While the pros and cons of the various approaches have yet to be fully discussed, the Transportation Institute wishes to encourage the Subcommittee to continue its efforts to develop a promotional program that would be beneficial to U.S.-flag liner operators, and pledges its assistance in any way possible.

In the absence of a new program or series of interlocking programs, the Transportation Institute supports full funding of existing maritime promotional programs.

Of the programs slated for elimination by the Administration, we are particularly distressed by the proposed suspension/termination of the Federal Ship Financing Fund. The Federal Ship Financing Fund is a revolving fund established under Title XI of the Merchant Marine Act, 1936, as amended, to guarantee construction loans and mortgages on U.S.-flag vessels. By enabling vessel owners to obtain long-term financing at favorable interest rates, the Title XI program has permitted the construction of hundreds of vessels essential to U.S. seafight capability. Yet in its budget estimates for Fiscal Year 1988, the Administration has stipulated that "During Fiscal Year 1988, no new commitments for guaranteed loans will be made."

The Administration typically justifies elimination of Title XI financing by pointing to defaults that have resulted in substantial one-time costs in recent years. However, the overall record of the program has been excellent, and tighter administrative controls have greatly reduced the risk. We must be careful not to prescribe amputation at the first sight of an injury. That, metaphorically, is what the Administration proposes to do. We urge retention and full funding of the Title XI ship construction and loan guarantee program as a necessary component of U.S. maritime policy.

The annual spectacle of a maritime industry fighting for its survival in the face of the latest round of budget cuts is as dangerous as it is saddening. Beyond the thousands of on-board and shoreside jobs represented by a healthy merchant marine, is the essential role the commercial fleet plays in providing adequate sealift for U.S. security. While other nations of the world, most notably the Soviet Union, have recognized the importance of a strong merchant marine, and are placing increased emphasis on improving their merchant fleets, the United States is allowing its fleet to disappear rapidly. Where most trading nations see the need to heavily subsidize their home fleets, the U.S. sees the utopia of free trade--an abstract concept that has not materialized in the real world of international trade.

To ensure the strength of the Nation's defense and the independence of the national economy, the U.S. must restore and preserve its merchant fleet. We pledge our continued cooperation with the members of this Subcommittee to obtain this objective, and we thank you for the opportunity to present our views.



National Association of Stevedores

2000 K Street, N.W. Suite 400 Washington, D.C. 20006 (202) 638-2000

April 7, 1987

Honorable John B. Breaux
Chairman, Subcommittee on Merchant Marine
Committee on Commerce, Science, and Transportation
Room 425
Hart Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

The National Association of Stevedores (NAS) is a membership trade organization representing the privately owned U.S. stevedore and marine terminal industry. The 41 NAS member companies load and unload ships calling at this country's ports in both foreign and domestic commerce. NAS member companies do business on all four of the country's seacoasts, the States of Hawaii and Alaska, and the Commonwealth of Puerto Rico.

We are writing to you concerning the Administration's budget request for the Maritime Administration for Fiscal Year 1988. As you are aware, the Administration already has terminated the Construction Differential Subsidy (CDS) program and wants to reduce Operating Differential Subsidies (ODS). It also wants to terminate the Title XI ship financing program, aid to state maritime academies, and all research and development by MarAd. No funding for the last two are requested for 1988.

However, the MarAd budget request does include \$2 million for Technical Studies and \$1.5 million for general program studies. The NAS urges you and members of the Committee to respond favorably to MarAd's funding request on those items and to insure that the funds be spent in the manner requested and not be deleted from MarAd's budget or allocated to other purposes.

The NAS regrets and does not support the Administration's withdrawal of financial support to the American Merchant Marine. Now it appears that by eliminating research and development funding from MarAd the Administration also is withdrawing technical assistance to a vital industry which cannot afford to perform all the research and development necessary for it to compete in international trade. The NAS believes that proper utilization of the \$3.5 million for technical and general program studies will fill at least part of the void created by the absence of research and development funds.

More importantly to NAS member companies, MarAd must have funding to continue its statutory responsibilities to American ports, stevedores and marine terminal operators. Up until now those responsibilities have been funded by research and development monies, and over the past few years MarAd has produced studies and reports beneficial to American ports, marine terminal operators and stevedores. Again, proper utilization of the \$3.5 million would permit MarAd to continue those activities.

One outstanding example of MarAd's activities in those areas should be brought to the Committee's attention. The NAS believes it demonstrates why MarAd must have research and development or technical study funds.

A few years ago, in response to requests from the NAS, MarAd requested the Marine Board, National Research Council, of the National Academy of Sciences, to do a study of U.S. marine terminal productivity. The Board formed a Committee on Productivity of Marine Terminals and selected members from industry, labor, and the academic community to serve on it. Papers were submitted by U.S. and foreign experts, and a week-long symposium was held in Long Beach, Cal. attended by U.S. and foreign industry representatives, MarAd and Customs officials, labor representatives and academics. All of this was funded by MarAd.

In October 1986 the National Research Council released a 204 page report entitled Improving Productivity of U.S. Marine Container Terminals. That report identified the problem areas which impede the full realization of U.S. marine terminal productivity and suggested steps to be taken to correct the situation. All participants agreed that the study was not enough and that more must be done. The main recommendation of the study committee was the formation of a voluntary national committee of all elements of the industry on marine terminal productivity, facilitated by the Maritime Administration and possibly the National Research Council to encourage and oversee many efforts that are in everyone's interest. The Committee recognized that government participation is essential to fully address the productivity problems of American ports and terminals.

There are tentative plans to follow through on the Committee's report by convening a national meeting of all interested parties under the auspices of the Marine Board, MarAd, and the Department of Labor. Continued involvement in this project by the Marine Board and MarAd depends upon MarAd's funding.

We cite this as one outstanding example of what MarAd can do given adequate funding and leadership. The competitiveness of the U.S., its merchant marine and its port industry requires the cooperation of management, labor and government.

The NAS urges the Committee to insure that MarAd has the necessary funds to perform its vital roles, and that this letter be included in the hearing record.

Sincerely yours,

Thomas D. Wilcox

Thomas D. Wilcox
Executive Director and General
Counsel